

COUNTY OF HAWAII  STATE OF HAWAII

BILL NO. 293
(Draft 2)

ORDINANCE NO. 98 113

AN ORDINANCE AMENDING ORDINANCE NO. 90-85, WHICH RECLASSIFIED THE DISTRICT CLASSIFICATION FROM VILLAGE COMMERCIAL (CV-7.5), MULTIPLE FAMILY RESIDENTIAL (RM-1), AND AGRICULTURAL (A-1a) TO GENERAL COMMERCIAL (CG-20) AT KEOPU 1ST, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-5-04:6 AND 13.

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

SECTION 1. Ordinance No. 90-85 is amended as follows:

"Section 2. This change in district classification is conditioned upon the following:

- (A) [the] ~~The~~ applicants, successors or assigns shall be responsible for complying with all of the stated conditions of approval[;].
- (B) [the] ~~The~~ required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy " within ninety days from the effective date of [the change of zone;]this ordinance.
- (C) [consolidation/resubdivision plans shall be submitted 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;] Final Consolidation/resubdivision Approval of the proposed subdivision within the subject property shall be secured from the Planning Director within five (5) years from the effective date of this ordinance.
- [(D) final Plan Approval for the commercial development shall be secured from the Planning Department within one year from the date of final subdivision

approval. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), Hawaii County Code, as amended, plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured;

(E) construction of the commercial development shall commence (building permits) within one year from the date of receipt of Final Plan Approval provided, however, that Condition H has been satisfied. The development shall be completed (certificates of occupancy) within two years thereafter;]

[(F)](D) [the] The applicants shall assist in the construction of Henry Street by dedication of land. If necessary, a contribution of up to \$100,000 shall be made to cover cost overrun incurred by the County of Hawaii during construction. The location of accesses and improvements to Henry Street shall be reviewed and approved by the Department of Public Works. No direct access shall be permitted to the property from Kuakini Highway or Queen Kaahumanu Highway. Further, interior on-site driveway circulation shall be coordinated to allow for future roadway connection to Lono Kona Subdivision, if deemed necessary by the Department of Public Works [;].

[(G)](E) [an] An on- and off-site drainage system shall be installed meeting with requirements of the Department of Public Works. The drainage system shall be constructed and maintained such that post-development condition downstream of the project are "better or no-worse " than pre-development conditions. A drainage study meeting with the requirements of the Department of Public Works shall be prepared for the purpose of determining the necessary on- and off-site drainage improvements for the development. Said on- and off-site drainage improvements shall be installed prior to the issuance of certificate(s) of occupancy for any portion of the development [;].

~~[(H)](E)~~ [no] ~~No~~ building permit for any portion of the development shall be issued unless and until there are legal and financial assurances acceptable to the Chief Engineer and the Office of the Corporation Counsel that the proposed Henry Street will be constructed and operable prior to or in conjunction with the issuance of a certificate of occupancy for any portion of the proposed development[;].

~~[(I)](G)~~ [an] ~~An~~ archaeological data recovery and preservation plan shall be submitted to the Department of Land and Natural Resources, Historic [Sites Section] Preservation Division (DLNR-HPD) and the Planning Department for review and acceptance prior to submittal of plans for plan approval review of any portion of the commercial development. The archaeological data recovery and preservation plan shall be in conformance with the accepted plan and shall be completed prior to any land alterations on the property[;].

~~[(J)](H)~~ [should] 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] DLNR-HPD shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the [Planning Department] DLNR-HPD when it finds that sufficient mitigative measures have been taken[;].

~~[(K)](I)~~ [comply] Comply with all other applicable laws, rules, regulations and requirements, including those of the Departments of Health, Water Supply, Public Works and Transportation-Highways Division[;].

~~[(L)](J)~~ [should] 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 developers' election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance[;].

~~[(M)](K)~~ [an] ~~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].

~~[(N)](L)~~ [an] ~~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 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 applicants should require an additional extension of time, the

Planning Director shall submit the applicants' request to the County Council for appropriate action.


(M) [Further, should] Should any of the conditions not be met or substantially complied with in a timely fashion, the Director [shall] may 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 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

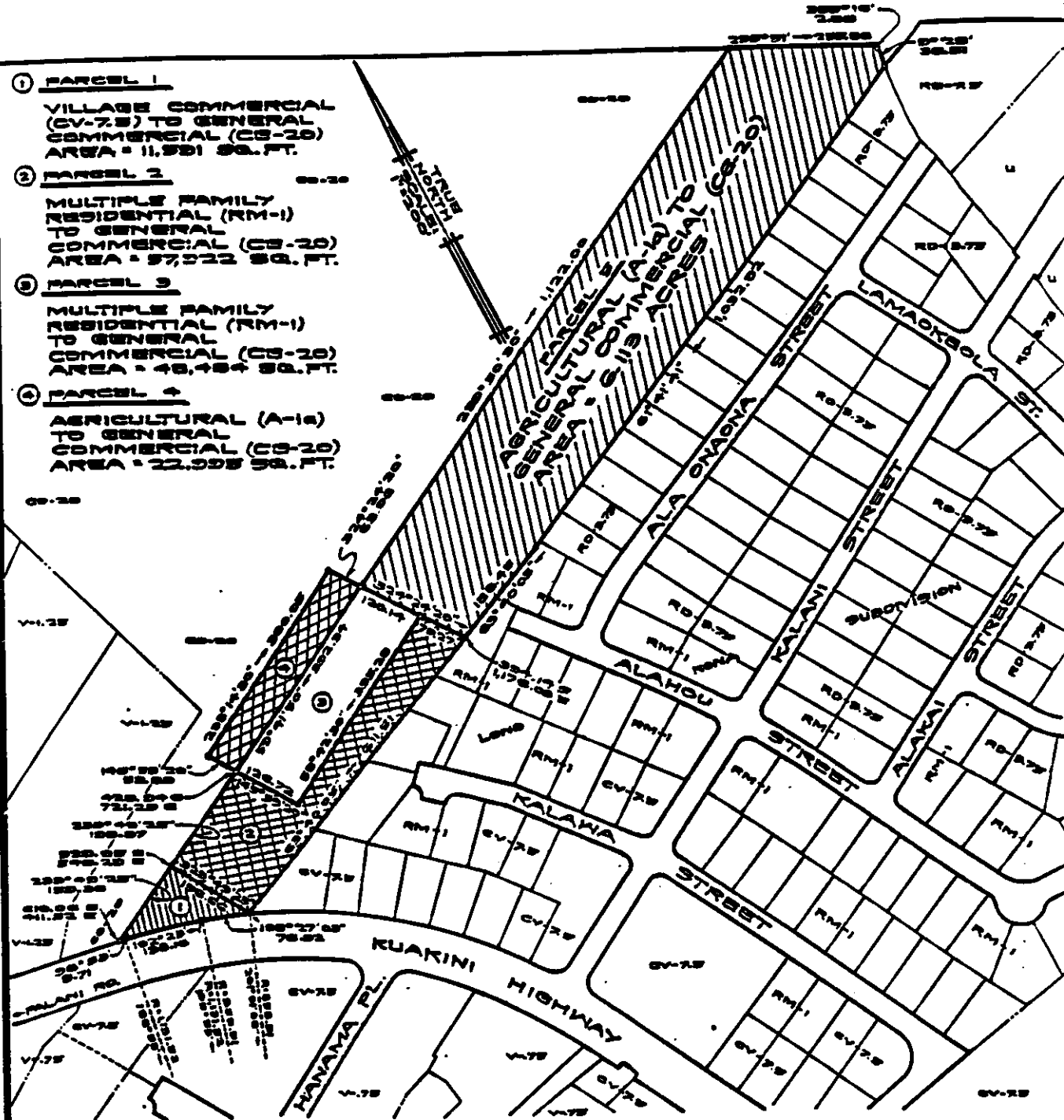
Hilo, Hawaii

Date of Introduction: October 21, 1998
Date of 1st Reading: October 21, 1998
Date of 2nd Reading: November 6, 1998
Effective Date: November 19, 1998
REFERENCE: Comm. 978.02

APPROVED AS TO FORM AND LEGALITY:


CORPORATION COUNSEL

DATED: 11/16/98



- ① **PARCEL 1**
VILLAGE COMMERCIAL (CV-75) TO GENERAL COMMERCIAL (CS-20)
AREA = 11,591 SQ. FT.
- ② **PARCEL 2**
MULTIPLE FAMILY RESIDENTIAL (RM-1) TO GENERAL COMMERCIAL (CS-20)
AREA = 97,522 SQ. FT.
- ③ **PARCEL 3**
MULTIPLE FAMILY RESIDENTIAL (RM-1) TO GENERAL COMMERCIAL (CS-20)
AREA = 48,484 SQ. FT.
- ④ **PARCEL 4**
AGRICULTURAL (A-1a) TO GENERAL COMMERCIAL (CS-20)
AREA = 22,395 SQ. FT.

NOTE 1
COORDINATES REFERRED TO GOVERNMENT SURVEY TRIANGULATION STATION "KAILUA (NORTH MERIDIAN)"

AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-89 (KAILUA URBAN ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM VILLAGE COMMERCIAL (CV-75), MULTIPLE FAMILY RESIDENTIAL (RM-1) AND AGRICULTURAL (A-1a) TO GENERAL COMMERCIAL (CS-20) AT KEOPU 1ST, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

RECEIVED

Time 2:30 p.m. By [Signature]

Date 11/23/98

County Council

(DRAFT 2)

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: October 21, 1998
 First Reading: October 21, 1998
 Published: October 30, 1998

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

Second Reading: November 6, 1998
 To Mayor: November 12, 1998
 Returned: November 23, 1998
 Effective: November 19, 1998
 Published: December 4, 1998

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	
	7	0	2	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 11/16/98

Approved/Disapproved this 19 day
 of November, 19 98

[Signature]
 MAYOR, COUNTY OF HAWAII

[Signature]

COUNCIL CHAIRMAN

[Signature]
 COUNTY CLERK

Bill No.: 293 (Draft 2)

Reference: C-978.02/PC-149

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