

COUNTY OF HAWAII

STATE OF HAWAII

BILL NO. 135
Draft 4

ORDINANCE NO. 03 132

AN ORDINANCE AMENDING SECTION 25-8-24 (KURTISTOWN ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO VILLAGE COMMERCIAL (CV-20) AT OLAA, PUNA, HAWAI'I, COVERED BY TAX MAP KEY 1-7-1:PORTION OF 11.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Section 25-8-24, Article 8, Chapter 25 (Zoning Code) of the Hawai'i 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, Hawai'i shall be Village Commercial (CV-20):

Beginning at the West corner of this parcel of land, being also the North corner of Lot 9-B-1, portion of Grant 4969 to Mai and on the Southerly side of Volcano Road (Federal Aid Project No. F-2(4)), the coordinates of which referred to Government Survey Triangulation Station "OLAA" being 2,559.91 feet South and 929.38 feet West and running by azimuths measured clockwise from true South:

- 1. 222° 15' 42.77 feet along the Southerly side of Volcano Road (Federal Aid Project No. F-2(4));
- 2. 238° 36' 457.27 feet along Government (Crown) Land of Olaa and Land Patent Grant S-14537 to Motoshi Sako and wf. Kiyoko Suzuki Sako;
- 3. 210° 16' 30" 107.00 feet along Land Patent Grant S-14537 to Motoshi Sako and wf. Kiyoko Suzuki Sako;
- 4. 298° 38' 171.08 feet along Grant 7583 to Wm. B. Nailima;
- 5. 40° 00' 574.24 feet along remainder of Grant 4971 to Kahili;

6. 122° 08' 300.00 feet along Lot 9-B-1, portion of Grant 4969 to Mai, to the point of beginning and containing an area of 2.814 Acres.

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. In accordance with Section 25-2-44, Hawai'i County Code, the County Council finds the following conditions are:

- (1) Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or
 - (2) Reasonably conceived to fulfill needs directly emanating from the land use proposed with respect to:
 - (A) Protection of the public from the potentially deleterious effects of the proposed use, or
 - (B) Fulfillment of the need for public service demands created by the proposed use.
- A. The applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. Prior to the issuance of a water commitment by the Department of Water Supply, the applicant shall submit the anticipated maximum daily water usage calculations as recommended by a registered engineer, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within ninety days from the effective date of this ordinance.
- C. Establishment of the proposed development shall be completed within five (5) years from the effective date of this ordinance. Final Plan Approval by the Planning Director in accordance with the Zoning Code shall be secured by the applicant prior to the commencement of construction. Development plans shall identify existing and proposed structures, fire protection measures, paved

driveway accesses and parking stalls, and other improvements associated with the proposed use. Landscaping shall be included in the development plans to mitigate any potential adverse noise or visual impacts to adjacent properties in accordance with the Planning Department's Rule No. 17 (Landscaping Requirements).

- D. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. A drainage study shall be prepared and submitted to the Department of Public Works prior to issuance of Final Plan Approval. Any drainage improvements shall be constructed, meeting with the approval of the Department of Public Works prior to the issuance of a certificate of occupancy.

- E. Access from the project site to State Highway 11 shall meet with the approval of the Department of Transportation. The applicant shall attempt to secure an agreement from the State to use the relocated service station easement. If permission is obtained, access shall be solely from that easement. In either case, the applicant shall [pay or cause] fund or participate in the construction of 50% of the cost of [installation of] installing a traffic signal at the intersection of Huina Road and Highway 11 in conjunction with the State's planned intersection improvements within one year from the effective date of this ordinance. The applicant may construct the entire traffic signalization improvement project and seek 50% reimbursement from other interested party(ies) in the immediate area. In the event the traffic lights are constructed by a party(ies) other than the applicant, the applicant shall reimburse said party(ies) its 50% share prior to or upon activation of the lights.

- F. The applicant shall submit a Solid Waste Management Plan to the Department of Environmental Management for its review and approval. A copy of the approved Plan shall be submitted to the Planning Department prior to the issuance of Final Plan Approval.

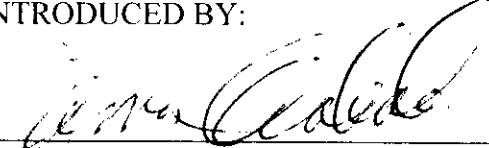
- G. Should any remains of historic sites such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources – Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.
- H. Comply with all applicable laws, rules, regulations and requirements of the affected agencies for approval of the proposed development within the subject property.
- 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 annual progress report shall be submitted to the Planning Director prior to the anniversary date of enactment of the ordinance. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval are being satisfied. This condition shall remain in effect until all of the conditions of approval have been satisfied and the Planning Director acknowledges that further reports are not required.
- K. [An] With the exception of Condition E, an initial 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, its 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).
 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.
- L. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the subject area 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:

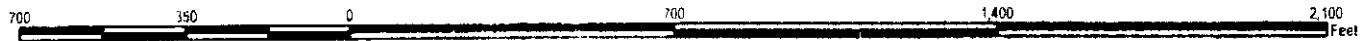
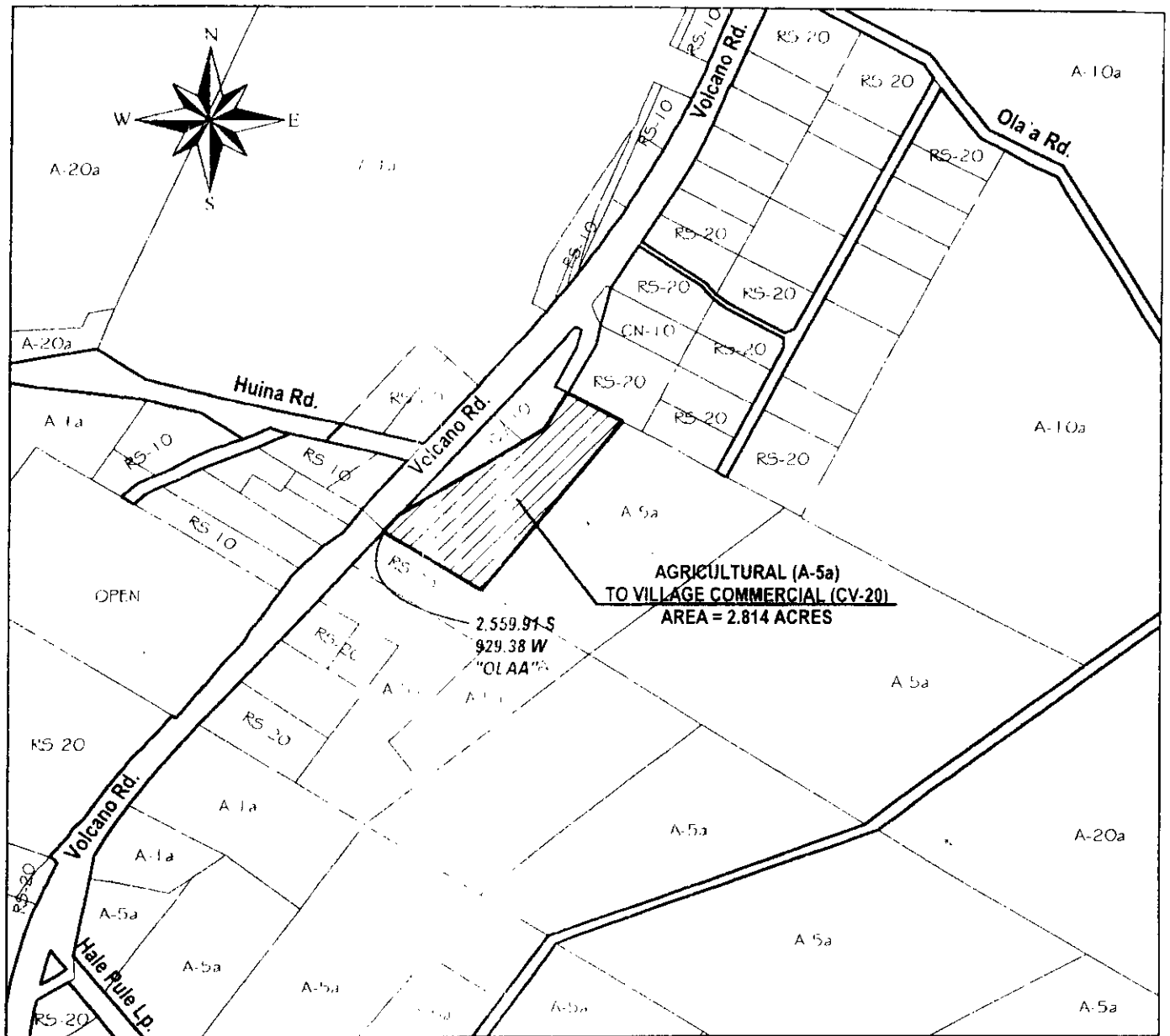


COUNCIL MEMBER, COUNTY OF HAWAII

Kona, Hawai'i

Date of Introduction: September 4, 2003
Date of 1st Reading: September 4, 2003
Date of 2nd Reading: September 17, 2003
Effective Date: September 24, 2003

REFERENCE: Comm. 308.9



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-24 (KURTISTOWN ZONE MAP)
 ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE,
 BY CHANGING THE DISTRICT CLASSIFICATION
 FROM AGRICULTURAL (A-5a)
 TO VILLAGE COMMERCIAL (CV-20)
 AT OLA'A, PUNA, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

(DRAFT 3)

Introduced By: James Y. Arakaki
 Date Introduced: September 4, 2003
 First Reading: September 4, 2003
 Published: September 14, 2003

REMARKS: _____

Second Reading: September 17, 2003
 To Mayor: September 22, 2003
 Returned: September 25, 2003
 Effective: September 24, 2003
 Published: October 5, 2003

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
Elarionoff	X			
Holschuh	X			
Jacobson		X		
Reynolds	X			
Safarik	X			
Tyler	X			
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(DRAFT 4)

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Holschuh	X			
Jacobson		X		
Reynolds	X			
Safarik	X			
Tulang	X			
Tyler	X			
	8	1	0	0

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

APPROVED AS TO
FORM AND LEGALITY:

Deputy Corporation Counsel
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 9/23/03

[Signature]
 COUNCIL CHAIRMAN
[Signature]
 COUNTY CLERK

Bill No.: Bill 135, Draft 4
 Reference: C-308.9/PC-55
 Ord No.: 03 132

Approved/Disapproved this 24th day
 of September, 2003
[Signature]
 MAYOR, COUNTY OF HAWAII