

BILL NO. 42
(DRAFT 2)

ORDINANCE NO. 11 55

AN ORDINANCE AMENDING ORDINANCE NO. 03 162 WHICH AMENDED ORDINANCE NO. 91-91, WHICH CHANGED THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – 1 ACRE (A-1a) TO VILLAGE COMMERCIAL – 1 ACRE (CV-1a) AT HÖLUALOA 1ST AND 2ND, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY: 7-6-008:005 (PORTION).

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

SECTION 1. Ordinance No. 03 162 is amended as follows:

“SECTION 1. Section 25-8-3, Article 8, Chapter 25 (Zoning Code) of the [Hawaii] Hawai'i County Code 1983 (2005 Edition), is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at [~~Holu~~aloa] Hōlualoa 1st and 2nd, North Kona, [Hawaii] Hawai'i, shall be Village Commercial – 1 acre (CV-1a):

Beginning at the Northeasterly corner of this parcel of land, being also an angle point on the Northerly side of an existing 12-ft. wide trail, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA (NORTH MERIDIAN)" being 8,317.45 feet South and 15,425.88 feet East and running by azimuths measured clockwise from True South:

1. 358° 54' 30" 12.07 feet across the existing 12-ft. wide trail to a point;
2. 6° 44' 30" 67.12 feet along stonewall and along the remainders of Allotment 63 of the [~~Holu~~aloa] Hōlualoa 1st and 2nd Hui Partition and Royal Patent 4475, Land Commission Award 7713, Apana 43 to V. Kamamalu to a point;

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|----|------------|-------|---|
| 3. | 8° 49' 30" | 56.82 | feet along stonewall and along the remainders of Allotment 63 of the [Hōlualōa] Hōlualoa 1 st and 2 nd Hui Partition and Royal Patent 4475, Land Commission Award 7713, Apana 43 to V. Kamamalu to point; |
| 4. | 9° 20' | 20.95 | feet along the Westerly side of an existing roadway to a point; |

Thence, for the next six (6) courses following along the remainders of Allotment 63 of the [Hōlualōa] Hōlualoa 1st and 2nd Hui Partition and Royal Patent 4475, Land Commission Award 7713, Apana 43 to V. Kamamalu:

- | | | | |
|-----|--------------|--------|--|
| 5. | 82° 33' 30" | 241.43 | feet to a point; |
| 6. | 172° 33' 30" | 166.92 | feet, passing across the existing 12-ft. wide trail, to a point; |
| 7. | 262° 33' 30" | 145.00 | feet to a point; |
| 8. | 263° 12' | 47.28 | feet along stonewall to a point; |
| 9. | 267° 16' 30" | 30.51 | feet along stonewall to a point; |
| 10. | 274° 21' | 59.75 | feet along stonewall to the point of beginning and containing an area of 1.000 Acre. |

SECTION 2. [~~This change in district classification is conditioned upon the following:~~] In accordance with Section 25-2-44, Hawai'i County Code 1983 (2005 Edition), the County Council finds the following conditions are:

Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or

- (1) 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, successors or assigns shall be responsible for complying with all of the conditions of approval;
- B. Construction of the proposed development shall be completed within [~~five (5)~~] three (3) years from the date of this amendment. 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);
- C. [~~a~~] A drainage system shall be installed meeting with the requirements of the Department of Public Works;
- D. [~~access~~] Access to the development shall be restricted to one driveway from [~~Mamalahoa~~] Māmalahoa Highway. This access shall be provided over Tax Map [~~key~~] Key Nos: 7-6-8: 24 and [~~27~~] 5, unless an equivalent or better access (i.e., sight distance, topography, hazards) can be utilized meeting with the approval of the Department of Public Works and Planning. The driveway access shall be improved with a minimum 20-foot wide pavement from [~~Mamalahoa~~] Māmalahoa Highway to the development 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 part of the development;

- E. [~~sight~~] Sight distance, including pavement widening along the frontage of TMK: 7-6-8: 05, shall meet with the requirements of the Department of Public Works. These improvements shall be completed prior to issuance of a certificate of occupancy for any part of the development;
- F. [~~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 shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken;
- G. [~~comply~~] Comply with all other applicable laws, rules, regulations and requirements, including those of the Departments of Health, Water Supply, and Public Works;
- H. [~~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;
- I. [~~the~~] The applicant, his successors, assigns or heirs shall not seek an increase in density beyond the maximum of five units until the existing infrastructure on [~~Hualalai~~] Hualālai Road and [~~Mamalahoa~~] Māmalahoa Highway has been improved to acceptable standards. The applicant shall submit restrictive deed covenants for the subject property to the [~~planning department~~] Planning Department for its review and approval prior to the submittal to the State of [~~Hawaii~~] Hawai‘i, Bureau of Conveyances for recordation with the final plat maps. These covenants shall be included in the deed and will require that there be

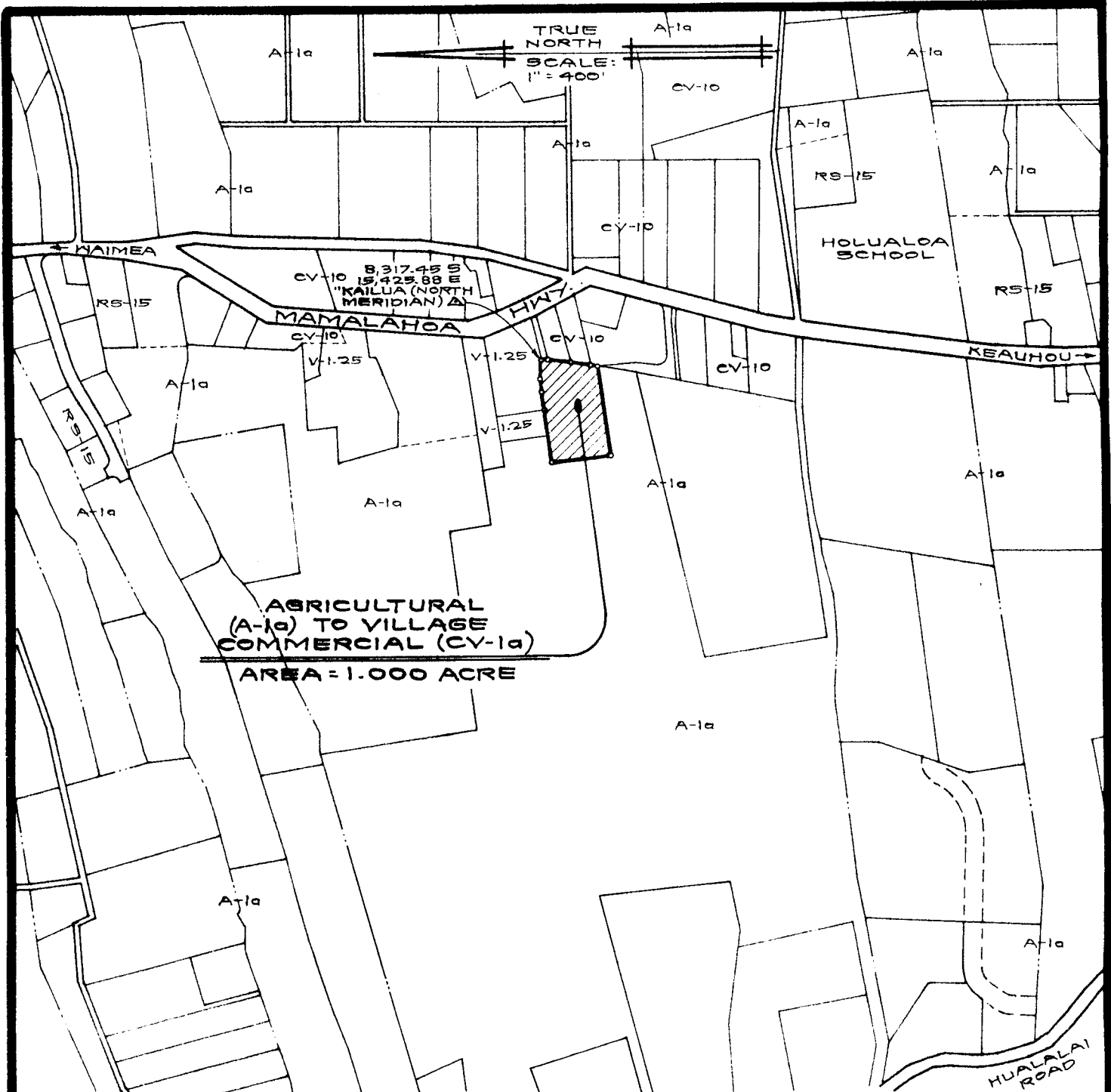
no increase in density on the subject properties until such time as the infrastructure on [~~Hualalai~~] Hualālai Road and [~~Mamalahoa~~] Māmalahoa Highway has been improved to an acceptable standard meeting with the approval of the [~~planning department~~] Planning Department and [~~department of public works~~] Department of Public Works. Once those conditions have been met, this covenant may be extinguished;

- J. [~~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,
- K. The 12-foot wide trail running along the northern portion of the property shall not be disturbed nor blocked from traditional and customary pedestrian use. Furthermore, the minimum structural setback shall begin from the southern edge from the 12-foot wide trail.
- L. 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 may initiate rezoning of the area to its original or more appropriate designation.”

SECTION 2. Material to be deleted is bracketed and struck through and material to be added is underscored.

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.

FOR REFERENCE ONLY



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 AGRICULTURAL (A-1a) TO VILLAGE COMMERCIAL (CV-1a) AT HOLUALOIA 1ST AND 2ND, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK: 7-6-08:10 (PORTION)

DEC. 28, 1990

(DESMOND J. TWIGG-SMITH) C-42

SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i

Date of Introduction: May 4, 2011
Date of 1st Reading: May 4, 2011
Date of 2nd Reading: May 17, 2011
Effective Date: June 8, 2011

REFERENCE: Comm. 159.3

OFFICE OF THE COUNTY CLERK
County of Hawai'i
Hilo, Hawai'i

(Draft 2)

Introduced By: Brenda Ford
Date Introduced: May 4, 2011
First Reading: May 4, 2011
Published: N/A

REMARKS: _____

Second Reading: May 17, 2011
To Mayor: May 26, 2011
Returned: June 9, 2011
Effective: June 8, 2011
Published: June 18, 2011

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Blas	X			
Ford	X			
Hoffmann	X			
Ikeda	X			
Onishi	X			
Pilago	X			
Smart	X			
Yagong	X			
Yoshimoto			X	
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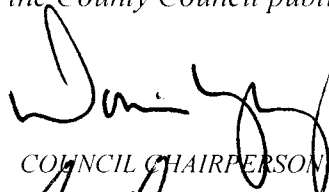
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
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Ikeda	X			
Onishi	X			
Pilago	X			
Smart	X			
Yagong	X			
Yoshimoto	X			
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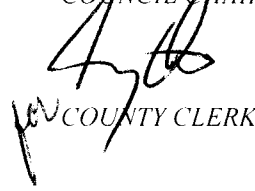
I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

APPROVED AS TO
FORM AND LEGALITY

DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date JUN - 1 2011

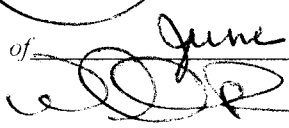

COUNCIL CHAIRPERSON


COUNTY CLERK

Bill No.: 42 (Draft 2)

Reference: C-159.3/PC-19

Ord No.: 11 55

Approved/Disapproved this 8th day
of June, 2011

MAYOR, COUNTY OF HAWAII