

COUNTY OF HAWAII STATE OF HAWAII



Bill No. 311 (Draft 3)

ORDINANCE NO. 87 47

AN ORDINANCE AMENDING SECTION 25-87 (NORTH KONA ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, RELATING TO THE MODIFICATION OF CONDITIONS TO ORDINANCE NO. 869 WHICH RECLASSIFIED CERTAIN LANDS FROM UNPLANNED (U) TO MULTIPLE FAMILY RESIDENTIAL (RM-4) AND (RM-7) AND TO NEIGHBORHOOD COMMERCIAL (CN-10) AT KAHULUI 2ND, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-5-19:PORTION OF 1.

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 modify certain conditions of Section 1 of Ordinance No. 869 as follows:

"SECTION 1. Section 7.02, Article 2, Chapter 8 (Zoning Code) of the Hawaii County Code, as amended, is further amended to add new subsections, to read as follows:

"7.02 (jjj-1). The district classification of the following area situated at Kahului 2nd, North Kona, Hawaii, shall be Multiple Family Residential (RM-7):

Beginning at the northwest corner of this parcel of land, on the east side of proposed Alii Highway right-of-way, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAHELO" being 1,443.31 feet North and 1,320.61 feet East and running by azimuths measured clockwise from True South:

Following along a stone-wall, along the south boundary of Grant 1868 to Kaupena for the next thirteen (13) courses, the azimuths and distances between points being:

1. 271° 40' 117.12 feet;
2. 270° 21' 82.70 feet;
3. 268° 13' 70.10 feet;
4. 253° 07' 24.00 feet to a pipe, centerline wall;
5. 250° 17' 41.60 feet;
6. 264° 17' 62.20 feet;
7. 256° 30' 107.80 feet;
8. 256° 13' 63.30 feet;
9. 263° 03' 40.00 feet;
10. 270° 34' 60.00 feet;
11. 257° 30' 31.70 feet;
12. 251° 22' 30.21 feet to the west side of Kuakini Highway to a pipe in concrete;
13. 304° 40' 135.06 feet along the west side of Kuakini Highway to a pipe in concrete;
14. Thence following along the west side of Kuakini Highway, along a curve to the right having a radius of 2,142.70 feet, the chord azimuth and distance being: 304° 56' 15" 20.26 feet to a pipe in concrete;
15. 323° 00' 92.68 feet along Old Abandoned Kailua-Keauhou Road to a pipe in concrete;
16. 314° 30' 299.56 feet along Old Abandoned Kailua-Keauhou Road to a pipe in concrete;
17. 324° 00' 241.90 feet along Old Abandoned Kailua-Keauhou Road to a pipe in concrete;

18. 301° 15' 80.11 feet along Old Abandoned Kailua-Keauhou Road to a pipe in concrete;
19. Thence following along the west side of Kuakini Highway, along a curve to the right having a radius of 1,597.02 feet, the chord azimuth and distance being: 337° 15' 08" 395.98 feet to a nail in concrete;
- Thence following along stonewall on the north side of R.P. 6716, L.C. Aw. 4887, Apana 2 to Thomas Sams for the next thirty-seven (37) courses, the azimuths and distances between points being:
20. 70° 29' 48.44 feet to a "+" on set stone;
21. 86° 35' 15.75 feet to a nail in concrete;
22. 63° 38' 30" 23.66 feet to a "+" on set stone;
23. 65° 59' 38.90 feet to a "+" on set stone;
24. 54° 55' 25.37 feet to a "+" on set stone;
25. 65° 09' 34.78 feet to a "+" on set stone;
26. 59° 30' 39.84 feet to a "+" on set stone;
27. 87° 38' 15.05 feet to a pipe in concrete;
28. 71° 22' 29.12 feet to a "+" on set stone;
29. 62° 44' 37.39 feet to a "+" on set stone;
30. 72° 20' 97.00 feet to a "+" on set stone;
31. 58° 12' 36.56 feet to a pipe in concrete;
32. 70° 54' 30" 61.62 feet to a pipe in concrete;
33. 60° 16' 36.17 feet to a "+" on set stone;
34. 67° 49' 46.44 feet to a "+" on set stone;

35. 74° 45' 21.89 feet to a "+" on set stone;
36. 67° 26' 15.27 feet to a nail in concrete;
37. 73° 29' 55.11 feet to a "+" on set stone;
38. 66° 21' 81.63 feet to a pipe in concrete;
39. 72° 59' 89.15 feet to a nail in concrete;
40. 69° 56' 30" 45.51 feet to a "+" on set stone;
41. 66° 15' 77.74 feet to a pipe in concrete;
42. 60° 52' 26.78 feet to a "+" on set stone;
43. 63° 52' 30" 37.28 feet to a nail in concrete;
44. 64° 52' 24.91 feet to a "+" on set stone;
45. 55° 48' 19.41 feet to a nail in concrete;
46. 67° 49' 13.07 feet to a pipe in concrete;
47. 80° 05' 12.34 feet to a "+" on set stone;
48. 72° 17' 30" 78.42 feet to a nail in concrete;
49. 66° 11' 30.23 feet to a nail in concrete;
50. 62° 45' 42.95 feet to a "+" on set stone;
51. 66° 00' 70.33 feet to a nail in concrete;
52. 73° 43' 30" 33.76 feet to a "+" on set stone;
53. 69° 55' 30" 101.23 feet to a nail in concrete;
54. 75° 18' 88.89 feet to a nail in concrete;
55. 70° 02' 16.70 feet to a "+" on set stone;
56. 76° 53' 30" 135.49 feet;
57. Thence along the east side of the proposed Alii Highway right-of-way, along a curve to the right having a radius of 1,950.00 feet, the chord azimuth and distance being:  
167° 41' 37" 423.88 feet;

58. 263° 56' 310.00 feet along the remainder of L.C. Aw. 8516-B, Apana 3 to M. Kamaikui;
59. Thence along the remainder of L.C. Aw. 8516-B, Apana 3 to M. Kamaikui, along a curve to the right having a radius of 1,640.00 feet, the chord azimuth and distance being: 178° 48' 35" 278.82 feet;
60. 95° 26' 279.10 feet along the remainder of L.C. Aw. 8516-B, Apana 3 to M. Kamaikui;
61. Thence along the remainder of L.C. Aw. 8516-B, Apana 3 to M. Kamaikui, along a curve to the left having a radius of 30.00 feet, the chord azimuth and distance being: 49° 14' 21.5" 43.30 feet;
62. Thence along the east side of the proposed Alii Highway right-of-way, along a curve to the right having a radius of 1,950.00 feet, the chord azimuth and distance being: 194° 47' 13.45" 793.66 feet to the point of beginning and containing an area of 38.531 Acres.

7.02 ( -2). The district classification of the following area situated at Kahului 2nd, North Kona, Hawaii, shall be Neighborhood Commercial (CN-10):

Beginning at the southwest corner of this parcel of land, on the east side of the proposed Alii Highway right-of-way, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAHELO" being 366.25 feet North and 1,126.23 feet East and running by azimuths measured clockwise from True South:

1. Following along the east side of the proposed Alii Highway right-of-way, along a curve to the right having a radius of 1,950.00 feet, the chord azimuth and

distance being:  
178° 29' 21.5" 309.79 feet;

2. Thence along the remainder of L.C. Aw. 8516-B, Apana 3 to M. Kamaikui along a curve to the right having a radius of 30.00 feet, the chord azimuth and distance being: 229° 14' 21.5" 43.30 feet;
3. 275° 26' 279.10 feet along the remainder of L.C. Aw. 8516-B, Apana 3 to M. Kamaikui;
4. Thence along the remainder of L.C. Aw. 8516-B, Apana 3 to M. Kamaikui along a curve to the left having a radius of 1,640.00 feet, the chord azimuth and distance being: 358° 48' 35" 278.82 feet;
5. 83° 56' 310.00 feet along the remainder of L.C. Aw. 8516-B, Apana 3 to M. Kamaikui to the point of beginning and containing an area of 2.203 Acres.

7.02 (jjj-3). The district classification of the following area situated at Kahului 2nd, North Kona, Hawaii, shall be Multiple Family Residential (RM-4):

Beginning at a nail in concrete at the northwest corner of this parcel of land, on the east side of Alii Drive, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAHELO" being 1,234.40 feet North and 60.75 feet West and running by azimuths measured clockwise from True South:

1. 253° 22' 60.87 feet along the remainder of L.C. Aw. 8516-B, Apana 3 to M. Kamaikui to a pipe in concrete;
2. 170° 26' 64.65 feet along the remainder of L.C. Aw. 8516-B, Apana 3 to M. Kamaikui to a pipe in concrete;

3. 266° 20' 153.00 feet along the remainder of L.C. Aw. 8516-B, Apana 3 to M. Kamaikui to a pipe in concrete;
4. 171° 30' 105.00 feet along the remainder of L.C. Aw. 8516-B, Apana 3 to M. Kamaikui to a pipe in concrete;

Thence following along a stonewall, along the south boundary of Grant 1868 to Kaupena for the next eleven (11) courses, the azimuths and distances between points being:

5. 252° 27' 24.80 feet;
6. 264° 10' 95.20 feet to a spike in solid rock
7. 267° 14' 95.40 feet;
8. 277° 54' 19.60 feet;
9. 269° 15' 27.80 feet;
10. 259° 19' 97.00 feet;
11. 264° 39' 65.70 feet to a pipe, centerline wall;
12. 271° 46' 122.40 feet;
13. 274° 32' 122.80 feet;
14. 224° 08' 13.60 feet to a pipe, centerline wall;
15. 269° 59' 144.10 feet;
16. 275° 58' 266.16 feet;
17. Thence along the west side of the proposed Alii Highway right-of-way, along a curve to the left having a radius of 2,050.00 feet, the chord azimuth and distance being:  
7° 09' 01.3" 1,262.38 feet to a pipe in concrete;

18. 72° 30' 807.48 feet along Lot 1 to a pipe in concrete;
19. Thence along Lot 1, along a curve to the left having a radius of 20.00 feet, the chord azimuth and distance being: 26° 30' 31.2" 28.77 feet to a pipe in concrete;
20. Thence along the east side of Alii Drive, along a curve to the right having a radius of 5,704.70 feet, the chord azimuth and distance being: 160° 38' 23.2" 24.37 feet;
21. 167° 45' 128.55 feet along the east side of Alii Drive to a pipe in concrete;
22. 163° 00' 508.01 feet along Abandoned Old Road to a pipe in concrete;
23. Thence along the east side of Alii Drive, along a curve to the right having a radius of 5,704.70 feet, the chord azimuth and distance being: 167° 37' 39.5" 94.06 feet to a pipe in concrete;
24. 168° 06' 556.16 feet along the east side of Alii Drive;
25. Thence along the east side of Alii Drive, along a curve to the left having a radius of 741.80 feet, the chord azimuth and distance being: 166° 22' 44.88 feet to the point of beginning and containing an area of 31.706 Acres.

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

These subsections are conditioned upon the following: (A) that the petitioner, its successors or assigns shall be responsible for complying with all



conditions of the change of zone; (B) that prior to the issuance of any further permits or approvals except those for grubbing the petitioner shall submit an overall site development plan for the approval of the Chief Engineer and the Planning Director. The site development plan shall include the following: general alignment and right-of-way widths of all streets, the location and density of various land uses, maintenance of scenic vistas, the proposed treatment of archaeological sites, and the location and type of major landscaping elements. Subsequent development shall be consistent with the approved site development plan unless otherwise approved by the Planning Director. In lieu of this the petitioner may proceed through the Planned Unit Development (PUD) process; (C) that the zoning for the RM-4 area shall be on an incremental basis. Development shall be in two (2) or more increments with each increment to be not less than 10 acres nor to exceed 20 acres. The effective date of zoning for the second and any succeeding increments shall be after development has occurred in the prior increment. "Development" means that building permits have been issued for residential dwelling units and construction has been partially completed to the extent that roofs have been constructed on a minimum of twenty-five percent (25%) of the number of units proposed for the entire prior increment. The petitioner may enter into an agreement with the Hawaii County Housing Agency for a bond to assure

the County that the dwellings will be constructed within a given period. Such agreement shall meet with the approval of the Corporation Counsel and the Hawaii County Housing Agency. Upon final execution of such agreement, development of the succeeding increments may proceed prior to the actual construction of the dwellings in the prior increment; (D) that the zoning for the RM-7 area above the Alii Highway alignment shall be on an incremental basis. This area shall be developed in two (2) or more increments with any increment not to be less than 10 acres nor to exceed 20 acres. The effective date of zoning for the second and any succeeding increments shall be after development has occurred in the prior increment.

"Development" means that building permits have been issued for residential dwelling units and construction has been partially completed to the extent that roofs have been constructed on a minimum of twenty-five percent (25%) of the number of units proposed for the entire prior increment. The petitioner may enter into an agreement with the Hawaii County Housing Agency for a bond to assure the County that the dwellings will be constructed within a given period. Such agreement shall meet with the approval of the Corporation Counsel and the Hawaii Housing Agency. Upon final execution of such agreement, development of the second and succeeding increments may proceed prior to the actual construction of the dwellings in the prior increment; (E) that the neighborhood commercial zoning

shall become effective at the same date as the second increment as stated in Condition D; (F) that plans for subdivision, if applicable, shall be submitted within one (1) year from the effective date of each respective zoning increment. Final subdivision plans shall be submitted within one (1) year from the date of tentative subdivision approval; (G) that plans for Plan Approval, if applicable, shall be submitted within one (1) year from the date of receipt of final subdivision approval; (H) construction shall commence within one (1) year from the date of receipt of each respective final plan approval and be completed within two (2) years thereafter; (I) that the petitioner shall dedicate the Alii Highway right-of-way and the associated easements within the subject property to the County within six (6) months of the date of final right-of-way determination by the Chief Engineer; (J) (1) that the petitioner alone or in cooperation with other property owners, subject to review by the Chief Engineer and Planning Director, shall either construct and dedicate [complete] the portion of the Alii Highway from the Kuakini Highway to the southern end of the subject property, or dedicate the road right-of-way and pay a pro rata fee of Eleven thousand eight hundred dollars (\$11,800) per acre for the construction of the Alii Highway through the subject property [meeting with the approval of the Chief Engineer, prior to the issuance of any occupancy permits on the subject property]. (2) The pro rata fee shall be subject to review and revision on an annual basis commencing a year after the effective date of this ordinance amending the conditions of the change of zone. The purpose of the review is to determine whether reasonable adjustments to the fees to

be paid are required as a result of cost changes, or other adjustments related to the Alii Highway project. Should the Chief Engineer determine that adjustments to the pro rata fees are warranted, based on accepted engineering practices, any retroactive adjustments necessary for prior increments shall be credited or made payable with the succeeding payment. The decision of the Chief Engineer shall be final in this regard. (3) Payment of fees shall occur according to the following schedule:

- a) Payment for the first increment of the RM-7 zoned property shall be made within one year of the effective date of this amendment to the change of zone ordinance, or prior to the issuance of final subdivision approval or final plan approval within the increment, whichever occurs first.
- b) Payment for the subsequent increments of the RM-7 zoned areas shall be made within five years of the effective date of this amendment to the change of zone ordinance, or prior to the issuance of final subdivision approval or plan approval within the increment, whichever comes first.
- c) Payment for the first increment of the RM-4 zoned property shall be made within one year of the effective date of this amendment to the change of zone ordinance, or prior to the issuance of final subdivision approval or final plan approval within the increment, whichever occurs first.

d) Payment for the subsequent increments of the RM-4 zoned areas shall be made within five years of the effective date of this amendment to the change of zone ordinance, or prior to the issuance of final subdivision approval or plan approval within the increment, whichever comes first.

e) Payment for the CN-10 zoned areas shall be made within five years of the effective date of this amendment to the change of zone ordinance, or prior to the issuance of final subdivision approval or plan approval within the increment, whichever comes first.

(4) The county shall place all monies collected pursuant to this condition in an interest bearing account established for the specific purpose of holding monies which shall be spent exclusively for the design and implementation of the Alii Highway project. (5) In lieu of the above acreage fee and payment schedule provisions, the county may accept and substitute an improvement district which covers the same improvements. (6) Notwithstanding any of the above provisions, all monies collected pursuant to this condition for Alii Highway improvements within the subject property shall either be expended or encumbered within fifteen years of the date of receipt or said unexpended or unencumbered funds shall be refunded to the original payor or the payor's agent.

(K) that the petitioner shall construct and complete a connecting road between the Alii Highway and Alii Drive, meeting with the approval of the Chief Engineer, prior to the issuance of any occupancy permits for those portions of the subject property makai of the Alii Highway; (L) that temporary [no direct] access off the Kuakini Highway shall be permitted until such time that Alii Highway is constructed. Upon completion of the Alii Highway project the temporary access shall be terminated. (M) (1) Prior to the issuance of any occupancy permits or final subdivision approvals on the subject property, that the petitioner, alone, or in conjunction with other affected property owners and the county, shall construct and complete drainage improvements within the Waiaha flood plain including the dedication, either in fee or by easement, of all lands within the subject property that are part of the flood plain improvements and the replacement of the Kahului Bridge on Alii Drive [prior to the issuance of any occupancy permits on the subject property]. Alternatively, the petitioner may pay a pro rata fee of Twenty-nine thousand dollars (\$29,000) per acre and dedicate in fee or by easement all lands within the subject property that are part of the flood plain improvements. No units or lots shall be developed within any designated 100-year flood plain area. The pro rata fee shall be subject to review and revision on an annual basis commencing a year after the effective date of this ordinance amending the conditions of the change of zone. The purpose of the review is to determine whether reasonable adjustments to the fees to be paid are required as a result of cost changes, or other adjustments related to the Waiaha flood plain project. Should

the Chief Engineer determine that adjustments to the pro rata fees are warranted, based on accepted engineering practices, any retroactive adjustment necessary for prior increments shall be credited or made payable with the succeeding payment. The decision of the Chief Engineer shall be final in this regard. (3) Payment of fees shall occur according to the following schedule:

- a) Payment for the first increment of the RM-7 zoned property shall be made within one year of the effective date of this amendment to the change of zone ordinance, or prior to the issuance of final subdivision approval or final plan approval within the increment, whichever occurs first.
- b) Payment for the subsequent increments of the RM-7 zoned areas shall be made within five years of the effective date of this amendment to the change of zone ordinance, or prior to the issuance of final subdivision approval or plan approval within the increment, whichever comes first.
- c) Payment for the first increment of the RM-4 zoned property shall be made within one year of the effective date of this amendment to the change of zone ordinance, or prior to the issuance of final subdivision approval or final plan approval within the increment, whichever occurs first.
- d) Payment for the subsequent increments of the RM-4 zoned areas shall be made within five years of the effective

date of this amendment to the change of zone ordinance, or prior to the issuance of final subdivision approval or plan approval within the increment, whichever comes first.

e) Payment for the CN-10 zoned areas shall be made within five years of the effective date of this amendment to the change of zone ordinance, or prior to the issuance of final subdivision approval or plan approval within the increment, whichever comes first.

(4) The county shall place all monies collected pursuant to this condition in an interest bearing account established for the specific purpose of holding monies which shall be spent exclusively for the design and implementation of the Waiaha Flood Plain improvements.

(5) In lieu of the above acreage fee and payment schedule provisions, the county may accept and substitute an improvement district which covers the same improvements.

(6) Notwithstanding any of the above provisions, all monies collected pursuant to this condition for Waiaha flood plain improvements, including the replacement of the Kahului Bridge on Alii Drive shall either be expended or encumbered within fifteen years of the date of receipt or said unexpended or unencumbered funds shall be refunded to the original payor or the payor's agent.

(7) The petitioner shall build a CRM retaining wall along the boundary of TMK: 7-5-19:8 & 9 and an overflow culvert, as depicted in Exhibit B, prior to any grading and/or



grubbing activities on the subject property, (N) that all other applicable rules, regulations and requirements [of the Department of Water Supply] including those of the Departments of Water Supply and Health shall be complied with. Should any of the foregoing conditions not be met the rezoning of the property to its original or more appropriate zoning designation may be initiated.

SECTION 2. Material to be deleted is bracketed. New material 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.

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

INTRODUCED BY:



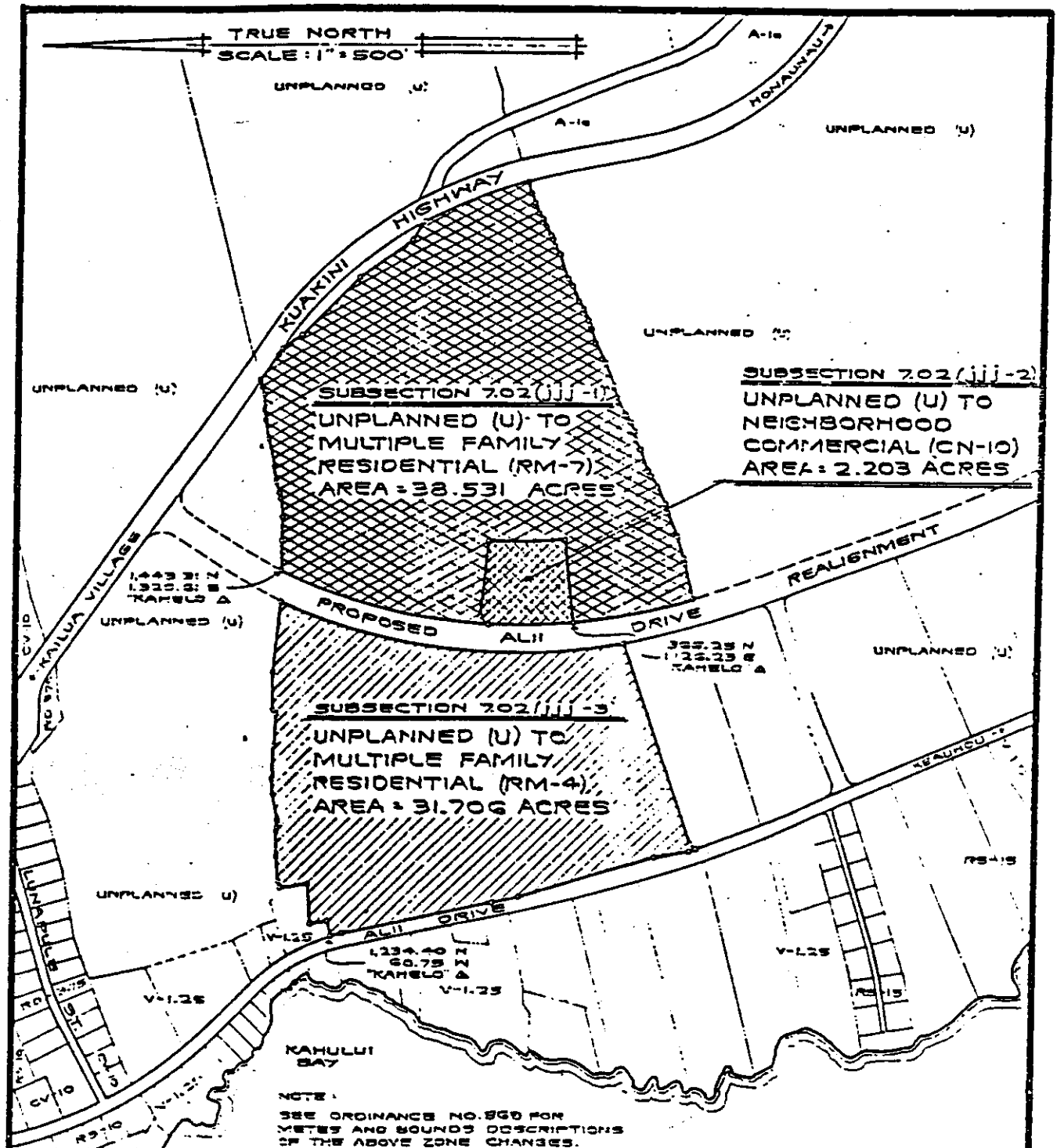
COUNCILMEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: February 4, 1987

Date of Adoption: May 6, 1987

Effective Date: May 11, 1987



## AMENDMENT TO THE ZONING CODE

AMENDMENT NO. 62 TO SECTION 7.02 (THE NORTH KONA ZONE MAP) ARTICLE 2, CHAPTER 8 (ZONING CODE) OF THE HAWAII COUNTY CODE, AS AMENDED, BY CHANGING THE DISTRICT CLASSIFICATION FROM UNPLANNED (U) TO MULTIPLE FAMILY RESIDENTIAL (RM-4) AND (RM-7) AND TO NEIGHBORHOOD COMMERCIAL (CN-10) AT KAHULUI 2ND, NORTH KONA, HAWAII.

DATE OF PUBLIC HEARING: NOV. 23 & DEC. 15, 1982  
 EFFECTIVE DATE: APRIL 18, 1983  
 ORDINANCE NUMBER: 869  
 PREPARED BY: PLANNING DEPARTMENT  
 COUNTY OF HAWAII