

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 565

ORDINANCE NO. 88 98

AN ORDINANCE AMENDING SECTION 25-114 (CITY OF HILO ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, RELATING TO THE MODIFICATION OF CONDITION D OF ORDINANCE NO. 21 WHICH REZONED CERTAIN LANDS AT WAIAKEA, SOUTH HILO, HAWAII, COVERED BY TAX MAP KEY 2-4-64:40 (PARK SITE).

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

SECTION 1. Section 25-114, Article 3, Chapter 25, (Zoning Code) of the Hawaii County Code, is amended by amending Section 2, Condition (D), of Ordinance No. 21 to read as follows:

"SECTION 2. Section 1 of this ordinance shall take effect forthwith upon the conditions that (A) the area be zoned in two (2) increments. The first increment shall consist of 65 lots and the second increment the remaining lots. The effective date of zoning for the second increment shall be after development has occurred on the first increment. Development is defined as building permits issued for residential dwelling units and construction partially completed - partially completed in the sense of having roofs on 26 units within the first increment to assure that a minimum of 40 per cent of the lots are developed with dwellings. The existing dwellings on the subject area shall be included as part of the requirement of providing the 26 units within the first increment; (B) the applicant, Kenneth Fujiyama, submit and secure tentative

approval of increment No. 1 of the proposed subdivision within one (1) year from the date of approval of the change of zone and also assume the responsibility for securing final subdivision approval for the first increment; (C) a minimum of 60-foot wide drainage easement be delineated and set aside for future drainage improvements through the length of the subject area along the existing river, and (D) [a minimum of 1.2-acre area be set aside within the subject area for park and recreational purposes. Said park shall be kept in private ownership and maintenance and the type of park improvements shall include a minimum of lot grading and grass planting meeting the approval of the Parks and Recreation Director. There shall also be adequate assurance, as determined by the Corporation Counsel, for the maintenance of the private park by recorded covenant running with the land which shall include the following:

- 1) Obligate the subdividers, purchasers, occupants or association in the subdivision to maintain the private park in perpetuity; and
- 2) Empower the County through the Parks and Recreation Director to enforce the covenants to maintain the private park and authorize the performance of maintenance work by the County in the event of failure by the subdivider, purchaser, occupants or association in the subdivision, to perform such work and permit the subjecting of the land and properties in the

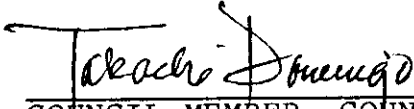
subdivision to a lien until the cost of work performed by the County has been reimbursed.] The applicant shall comply with the attached agreement made with the Lehua Heights Community Association and identified as Exhibit B. Further, a copy of the executed agreement shall be filed with the Planning Department within one year from the effective date of this amendment."

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this ordinance, neither the brackets nor the underscoring need be included.

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: June 1, 1988
Date of 1st Reading: June 1, 1988
Date of 2nd Reading: June 15, 1988
Effective Date: June 30, 1988

January 7, 1988

PROPOSAL

1. Original park requirement: 52,979 s.f.
2. Recommendation: Reallocate property as follows:

Lehua Heights Community Assn:	31,536 s.f.+
Kawaiilani Hui '74:	21,443 s.f.+

TOTAL	52,979 s.f.
3. Developers shall: (Subject to approval)
 - a) clear property
 - b) concrete or asphalt access driveway (approx. 125 ft.+)
 - c) contribute \$10,000.00 toward purchase of topsoil, seeds, shrubs and fencing (completely around property with security gate.) Balance, if any, to go toward future park expenses/improvements.
 - d) subject to Association developing suitable guidelines and policies for park usage and maintenance, developers will deed parcel to Association.
4. Association/Park Proponents Shall: (Subject to approval)
 - a) Develop suitable guidelines/policies for park usage and specifically address the following:
 1. Safety of park users and surrounding residents.
 2. Adequate security measures to prevent undesirable or unauthorized person from usage.
 3. Noise abatement and control for surrounding neighbors
 4. Funding program to adequately maintain property and other expenses. That funding be on a voluntary basis only.
 5. In the event property is liquidated net proceeds to belong to Association and proceeds to be used on behalf and in the best interest of Lehua Heights Community Association and the property owners of Lehua Heights.
 - b) Subject to preliminary understanding/agreement with developers, support developers request to delete Condition D, Zone Ordinance No. 21.

EXHIBIT B