

COUNTY OF HAWAII STATE OF HAWAII



Bill No. 627 (Draft 4)

ORDINANCE NO. 88 159

AN ORDINANCE 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 OPEN (O) TO SINGLE FAMILY RESIDENTIAL (RS-10); MULTIPLE FAMILY RESIDENTIAL (RM-3); RESORT-HOTEL (V-1.25); VILLAGE COMMERCIAL (CV-10) AND LIMITED INDUSTRIAL (ML-20) AT KOHANAIKI, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-3-09:PORTION OF 3.

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 change the district classification of properties described hereinafter as follows:

The district classification of the following area situated at Kohanaiki, North Kona, Hawaii shall be Single Family Residential (RS-10):

Parcel 1

Beginning at the northeasterly corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAHOLE-2" being 7,839.61 feet South and 7,802.28 feet East and running by azimuths measured clockwise from True South:

- 1. 328° 14' 41.6" 527.52 feet along Grant 2942 to Hukiloa;
2. 94° 30' 100.00 feet along the remainder of Grant 3086 to Kapena;
3. Thence along same on a curve to the left with a radius of 1200.00 feet, the chord azimuth and distance being: 83° 50' 444.23 feet;
4. 326° 00' 576.07 feet along same;

5. 27° 45' 1,048.30 feet along same;
6. 101° 00' 100.00 feet along same;
7. 175° 45' 290.00 feet along same;
8. 163° 45' 450.00 feet along same;
9. 122° 30' 300.00 feet along same;
10. Thence along same on a curve to the right with a
radius of 1200.00 feet,
the chord azimuth and
distance being:
220° 30' 334.02 feet;
11. 138° 30' 190.00 feet along same;
12. 192° 40' 269.93 feet along same;
13. 169° 41' 56" 188.10 feet along same;
14. 259° 41' 56" 825.00 feet along Grant 4536 to
J.A. Maguire to the point
of beginning and
containing an area of
25.950 Acres. (Refer to
Parcel 1 as shown on
Exhibit "A").

The district classification of the following area
situated at Kohanaiki, North Kona, Hawaii shall be
Multiple Family Residential (RM-3):

Parcel 2

Beginning at the southwesterly corner of this parcel of
land, the coordinates of said point of beginning referred
to Government Survey Triangulation Station "KEAHOLE-2"
being 10,750.36 feet South and 6,444.27 feet East, thence
running by azimuths measured clockwise from True South:

1. 185° 15' 490.05 feet along the remainder
of Grant 3086 to Kapena;
2. Thence along same on a curve to the right with a
radius of 4000.00 feet,
the chord azimuth and
distance being:
190° 22' 30" 714.63 feet;

3. 195° 30' 100.00 feet along same;
4. 285° 30' 100.00 feet along same;
5. 349° 00' 287.25 feet along same;
6. 339° 00' 609.52 feet along same;
7. 5° 15' 460.00 feet along same;
8. 95° 15' 530.00 feet along same to the point of beginning and containing an area of 11.493 Acres. (Refer to Parcel 2 as shown on Exhibit "A").

The district classification of the following area situated at Kohanaiki, North Kona, Hawaii shall be Single Family Residential (RS-10):

Parcel 3

Beginning at the North corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAHOLE-2" being 8,908.22 feet South and 8,134.40 feet East, thence running by azimuths measured clockwise from True South:

1. 328° 14' 41.6" 770.00 feet along the remainder of Grant 3086 to Kapena;
2. 58° 14' 41.6" 463.56 feet along same;
3. 125° 45' 432.46 feet along same;
4. 207° 45' 730.00 feet along same to the point of beginning and containing an area of 7.685 Acres. (Refer to Parcel 3 as shown on Exhibit "A").

The district classification of the following area situated at Kohanaiki, North Kona, Hawaii shall be Single Family Residential (RS-10):

Parcel 4

Beginning at the southeasterly corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAHOLE-2" being 10,302.98 feet South and 9,326.96 feet East, thence running by azimuths measured clockwise from True South:

1. 65° 15' 535.00 feet along the remainder of Grant 3086 to Kapena;
2. 46° 00' 360.00 feet along same;
3. 33° 30' 350.00 feet along same;
4. 98° 25' 200.17 feet along same;
5. 150° 10' 246.69 feet along same;
6. 127° 55' 340.00 feet along same;
7. 217° 55' 1,190.00 feet along same;
8. 286° 10' 265.00 feet along same;
9. 238° 14' 41.6" 170.00 feet along same;
10. 328° 14' 41.6" 753.60 feet along Grant 2942 to Hukiloa to the point of beginning and containing an area of 24.784 Acres. (Refer to Parcel 4 as shown on Exhibit "A").

The district classification of the following area situated at Kohanaiki, North Kona, Hawaii shall be Single Family Residential (RS-10):

Parcel 5

Beginning at the northeasterly corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAHOLE-2" being 10,559.99 feet South and 9,486.04 feet East, thence running by azimuths measured clockwise from True South:

1. 355° 00' 600.00 feet along the remainder of Grant 3086 to Kapena;

2. 341° 10' 270.00 feet along same;
3. 3° 00' 285.00 feet along same;
4. 83° 00' 540.99 feet along same;
5. 121° 00' 700.70 feet along same;
6. 177° 45' 213.14 feet along same;
7. 238° 52' 380.00 feet along same;
8. 226° 00' 310.00 feet along same;
9. 245° 15' 521.00 feet along same to the point of beginning and containing an area of 20.392 Acres. (Refer to Parcel 5 as shown on Exhibit "A").

The district classification of the following area situated at Kohanaiki, North Kona, Hawaii shall be Multiple Family Residential (RM-3):

Parcel 6

Beginning at the southwesterly corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAHOLE-2" being 12,436.17 feet South and 8,014.28 feet East, thence running by azimuths measured clockwise from True South:

1. 164° 39' 08" 322.16 feet along the remainder of Grant 3086 to Kapena;
2. 233° 00' 266.69 feet along same;
3. 143° 00' 410.00 feet along same;
4. 233° 00' 217.44 feet along same;
5. 301° 00' 1,218.80 feet along same;
6. 74° 39' 08" 1,140.00 feet along Land Court Application 1872 to the point of beginning and containing an area of 12.412 Acres. (Refer to Parcel 6 as shown on Exhibit "A").

The district classification of the following area situated at Kohanaiki, North Kona, Hawaii shall be Resort Hotel (V-1.25):

Parcel 7

Beginning at the southeasterly corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAHOLE-2" being 12,436.17 feet South and 8,014.28 feet East, thence running by azimuths measured clockwise from True South:

1. 74° 39' 08" 550.00 feet along Land Court Application 1872;
2. 157° 13' 188.97 feet along the highwater mark;
3. 136° 14' 254.93 feet along same;
4. 134° 44' 93.37 feet along same;
5. 122° 14' 71.55 feet along same;
6. 105° 19' 223.58 feet along same;
7. 180° 00' 120.00 feet along the remainder of Grant 3086 to Kapena;
8. 233° 00' 220.00 feet along same;
9. 273° 15' 188.70 feet along same;
10. 233° 00' 619.60 feet along same;
11. 323° 00' 650.00 feet along same;
12. 53° 00' 266.69 feet along same;
13. 344° 39' 08" 322.16 feet along same to the point of beginning and containing an area of 17.040 Acres. (Refer to Parcel 7 as shown on Exhibit "A").

The district classification of the following area situated at Kohanaiki, North Kona, Hawaii shall be Village Commercial (CV-10):

Parcel 8

Beginning at the southwesterly corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAHOLE-2" being 11,732.39 feet South and 5,787.36 feet East, thence running by azimuths measured clockwise from True South:

1. 185° 15' 1,038.02 feet along the remainder of Grant 3086 to Kapena;
2. 275° 15' 1,209.30 feet along same;
3. Thence along same on a curve to the right with a radius of 450.00 feet, the chord azimuth and distance being:
299° 07' 30" 364.27 feet;
4. 323° 00' 575.00 feet along same;
5. 53° 00' 619.60 feet along same;
6. 93° 15' 188.70 feet along same;
7. 53° 00' 220.00 feet along same;
8. 0° 00' 120.00 feet along same;
9. 50° 30' 51.05 feet along the highwater mark;
10. 43° 30' 45.63 feet along same;
11. 52° 38' 30" 153.45 feet along same;
12. 23° 40' 48.39 feet along same;
13. 118° 55' 70.69 feet along same;
14. 88° 42' 119.01 feet along same;
15. 205° 03' 57.96 feet along same;
16. 175° 03' 66.95 feet along same;
17. 183° 11' 115.90 feet along same;
18. 144° 51' 184.19 feet along same;
19. 111° 45' 143.73 feet along same;

- | | | |
|-----|----------|--|
| 20. | 121° 08' | 154.77 feet along same; |
| 21. | 93° 17' | 173.99 feet along same; |
| 22. | 81° 19' | 193.17 feet along same to the
point of beginning and
containing an area of
42.877 Acres. (Refer to
Parcel 8 as shown on
Exhibit "A"). |

The district classification of the following area situated at Kohanaiki, North Kona, Hawaii shall be Resort Hotel (V-1.25):

Parcel 9

Beginning at the southeasterly corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAHOLE-2" being 11,732.39 feet South and 5,787.36 feet East, thence running by azimuths measured clockwise from True South:

- | | | |
|-----|----------|---|
| 1. | 104° 56' | 80.35 feet along the highwater
mark; |
| 2. | 85° 14' | 72.98 feet along same; |
| 3. | 100° 53' | 58.20 feet along same; |
| 4. | 133° 14' | 71.85 feet along same; |
| 5. | 110° 18' | 81.30 feet along same; |
| 6. | 98° 59' | 74.17 feet along same; |
| 7. | 61° 40' | 47.79 feet along same; |
| 8. | 115° 35' | 82.34 feet along same; |
| 9. | 68° 56' | 109.94 feet along same; |
| 10. | 113° 52' | 70.80 feet along same; |
| 11. | 115° 35' | 126.25 feet along same; |
| 12. | 140° 16' | 47.67 feet along same; |
| 13. | 152° 29' | 53.83 feet along same; |

- | | | |
|-----|---|--|
| 14. | 165° 25' | 95.93 feet along same; |
| 15. | 194° 04' | 139.49 feet along same; |
| 16. | 98° 55' | 66.87 feet along same; |
| 17. | 42° 52' | 58.89 feet along same; |
| 18. | 95° 54' | 136.90 feet along same; |
| 19. | 128° 21' | 111.32 feet along same; |
| 20. | 168° 43' | 69.83 feet along same; |
| 21. | 170° 19' | 68.30 feet along same; |
| 22. | 190° 33' | 87.80 feet along same; |
| 23. | 195° 21' | 77.08 feet along same; |
| 24. | 170° 22' | 107.16 feet along same; |
| 25. | 241° 30' | 746.19 feet along the remainder
of Grant 3086 to Kapena; |
| 26. | Thence along same on a curve to the left with a radius
of 450.00 feet, the chord
azimuth and distance being:
303° 22' 30" 424.26 feet; | |
| 27. | 275° 15' | 274.79 feet along same; |
| 28. | 5° 15' | 1,038.02 feet along same to the
point of beginning and
containing an area of
26.095 Acres. (Refer to
Parcel 9 as shown on
Exhibit "A"). |

The district classification of the following area situated at Kohanaiki, North Kona, Hawaii shall be Village Commercial (CV-10):

Parcel 11

Beginning at the southwesterly corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAHOLE-2" being 10,431.55 feet South and 4,417.23 feet East, thence running by azimuths measured clockwise from True South:

1. 125° 07' 93.52 feet along the highwater mark;
2. 119° 56' 153.12 feet along same;
3. 153° 58' 99.41 feet along same;
4. 257° 30' 997.35 feet along the remainder of Grant 3086 to Kapena;
5. 167° 30' 635.78 feet along same;
6. 257° 30' 270.00 feet along same;
7. 347° 30' 622.21 feet along same;
8. 313° 35' 704.19 feet along same;
9. 5° 15' 290.00 feet along same;
10. 95° 15' 274.79 feet along same;
11. Thence along same on a curve to the right with a radius of 450.00 feet, the chord azimuth and distance being:
123° 22' 30" 424.26 feet;
12. 61° 30' 288.61 feet along same;
13. 167° 30' 438.24 feet along same;
14. 77° 30' 220.00 feet along same;
15. 347° 30' 100.00 feet along same;
16. 65° 15' 325.44 feet along same to the point of beginning and containing an area of 18.337 Acres. (Refer to Parcel 11 as shown on Exhibit "A").

The district classification of the following area situated at Kohanaiki, North Kona, Hawaii shall be Resort Hotel (V-1.25):

Parcel 12

Beginning at the northeasterly corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAHOLE-2" being 8,926.34 feet South and 4,900.95 feet East, thence running by azimuths measured clockwise from True South:

1. 347° 30' 1,095.78 feet along the remainder of Grant 3086 to Kapena;
2. 77° 30' 997.35 feet along same;
3. 148° 23' 41.26 feet along the highwater mark;
4. 159° 55' 80.70 feet along same;
5. 159° 07' 130.06 feet along same;
6. 159° 27' 121.70 feet along same;
7. 155° 46' 155.15 feet along same;
8. 163° 27' 96.29 feet along same;
9. 167° 06' 94.45 feet along same;
10. 159° 49' 186.21 feet along same;
11. 143° 32' 192.26 feet along same;
12. 241° 40' 610.04 feet along the remainder of Grant 3086 to Kapena;
13. 270° 30' 628.74 feet along same to the point of beginning and containing an area of 29.086 Acres. (Refer to Parcel 12 as shown on Exhibit "A").

The district classification of the following area situated at Kohanaiki, North Kona, Hawaii shall be Multiple Family Residential (RM-3):

Parcel 13

Beginning at the northwesterly corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAHOLE-2" being 8,926.34 feet South and 4,900.95 feet East, thence running by azimuths measured clockwise from True South:

1. 280° 40' 525.00 feet along the remainder of Grant 3086 to Kapena;
2. 316° 15' 777.35 feet along same;
3. 346° 30' 729.30 feet along same;
4. 5° 15' 425.00 feet along same;
5. 95° 15' 204.30 feet along same;
6. 185° 15' 290.00 feet along same;
7. 133° 35' 704.19 feet along same;
8. 167° 30' 622.21 feet along same;
9. 77° 30' 270.00 feet along same;
10. 167° 30' 460.00 feet along same to the point of beginning and containing an area of 19.271 Acres. (Refer to Parcel 13 as shown on Exhibit "A").

The district classification of the following area situated at Kohanaiki, North Kona, Hawaii shall be Single Family Residential (RS-10):

Parcel 14

Beginning at the northeasterly corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAHOLE-2" being 8,751.26 feet South and 6,747.49 feet East, thence running by azimuths measured clockwise from True South:

1. 39° 20' 620.65 feet along the remainder of Grant 3086 to Kapena;
2. 26° 40' 236.49 feet along same;

- | | | |
|----|----------|---|
| 3. | 87° 30' | 280.00 feet along same; |
| 4. | 159° 00' | 450.00 feet along same; |
| 5. | 145° 50' | 200.00 feet along same; |
| 6. | 204° 50' | 100.00 feet along same; |
| 7. | 268° 40' | 325.00 feet along same; |
| 8. | 257° 20' | 543.13 feet along same; |
| 9. | 302° 30' | 185.00 feet along same to the
point of beginning and
containing an area of
10.836 Acres. (Refer to
Parcel 14 as shown on
Exhibit "A"). |

The district classification of the following area situated at Kohanaiki, North Kona, Hawaii shall be Limited Industrial (ML-10):

Parcel 15

Beginning at the northeasterly corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KEAHOLE-2" being 8,072.07 feet South and 6,523.23 feet East, thence running by azimuths measured clockwise from True South:

- | | | |
|----|--------------|---|
| 1. | 30° 50' | 390.00 feet along the remainder
of Grant 3086 to Kapena; |
| 2. | 77° 00' | 284.25 feet along same; |
| 3. | 65° 00' | 385.23 feet along same; |
| 4. | 126° 00' | 560.00 feet along same |
| 5. | 259° 41' 56" | 1,300.00 feet along Grant 4536 to
J.A. Maguire to the point
of beginning and
containing an area of
7.666 Acres. (Refer to
Parcel 15 as shown on
Exhibit "A"). |

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

SECTION 2. These changes in district classification are conditioned upon the following: (A) the applicant, successors or its assigns shall comply with all of the stated conditions of approval; (B) in order to allow a determination that the adequacy of potable water can be met for the various zoned districts or a specified increment thereof, the applicant shall either: 1) provide proof of a private water well(s) or desalination plant of such quality and quantity adequate to meet the needs of the proposed development. Said determination shall be made by the Department of Water Supply upon consultation with the Planning Department, the State Department of Health and the Division of Water and Land Development of the Department of Land and Natural Resources; 2) enter into an Agreement that is executed between the developer and the County through its Departments of Water Supply and Planning to undertake a water source development program, including a desalination plant, with and under the following conditions: (a) the developer executes an agreement, which is accompanied by a partial bond, surety or other security deemed appropriate by the Planning Director, to undertake the water source development program; (b) there is a specific construction timetable for the water source development program; status reports; and any other information deemed important by the Departments of Water Supply and Planning to assure reasonable progress to undertake the water development program; (c) the effective date of the rezoning ordinance occurs only after:

(1) there is assurance(s) satisfactory to the Departments of Water Supply and Planning, upon consultation with the State Department of Health and the Division of Water and Land Development of the Department of Land and Natural Resources, that a source of sufficient quality and quantity has been established; and (2) an agreement, together with the appropriate bond, surety or other security deemed acceptable by the Planning Director, is executed between the developer and the County through its Departments of Water Supply and Planning for the actual development of a proven water source and its water transmission and distribution system; (d) no subdivision and/or development of any portion of the land shall occur unless and until items B (2)(a), (b), and (c) have been complied with; and (e) the Planning Director shall be mandated to initiate action to immediately rezone the property to its previous classification if any of the above has not been complied with in a timely manner; (C) a Special Management Area (SMA) Use Permit application for the first phase of development which includes one hotel and the golf course, shall be submitted within one year from the effective date of the change of zone. Plans for the 400-room Central Hotel and related improvements scheduled to be developed in Phase I, shall be submitted to the Planning Department for plan approval review within one year from the effective date of the first Shoreline Management Area Use Permit. Construction shall commence within one year from the date of receipt of final plan approval and be

completed within three years thereafter; (D) unless a lesser setback is approved by the Planning Director, all proposed buildings, other than those directly related to the golf course operations, shall observe a minimum setback of 100 feet from the edge of the fairways/greens/tee areas of the golf course. If deemed necessary, additional setbacks or other mitigating measures, such as additional landscaping along certain portions of the golf course boundaries, may be imposed at the time of plan approval review; (E) fully channelized intersection improvements, including but not limited to deceleration, acceleration and left-turn storage lanes and street lighting, shall be provided at the intersection of Queen Kaahumanu Highway and the proposed main resort entry road meeting with the approval of the State Department of Transportation, Highways Division; (F) a traffic monitoring program of the Queen Kaahumanu Highway-Kohanaiki Resort's intersection shall be submitted to and approved by the State Department of Transportation, Highways Division, prior to receiving final plan approval for any portion of the proposed development. If additional intersection improvements such as, but not limited to, a fully channelized intersection, with acceleration/ deceleration lanes, an underpass or overpass and signal lights are required as determined by the findings of subsequent monitoring and analysis, the applicant shall provide the improvements in accordance with the requirements of the State Department of Transportation, Highways Division.

These improvements may be provided jointly with adjoining property owners; (G) all roadways within the proposed development shall be constructed in accordance with the requirements of the Department of Public Works. Curbs, gutters and sidewalks may be required to be constructed in areas of likely pedestrian traffic as determined by the Chief Engineer and the Planning Director; (H) a roadway connection to the adjacent property to the north shall be provided meeting with the approval of the Department of Public Works; (I) a drainage system shall be installed meeting with the approval of the Department of Public Works; (J) all residential, commercial and hotel units and uses shall be connected to a secondary sewage treatment plant, public or private, meeting with the approval of the appropriate governmental agencies. The secondary sewage treatment plant shall have a stand-by generator to operate the plant in the event of an electrical power outage; (K) the applicant, successors or assigns shall be responsible for satisfying an affordable housing requirement which is being assessed on both the resort and residential components of the proposed project. A maximum of five hundred twenty-five (525) affordable units will be required to address the needs generated by the one thousand two hundred fifty (1,250) resort/hotel units currently being proposed. A maximum of four hundred twenty (420) affordable units will be required for the residential component of the project based on 60% of the total number of residential units being proposed. The total

affordable housing requirement being assessed, based on the current development scenario, will be a maximum of nine hundred forty-five (945) affordable units. These affordable housing units may be provided on or off the project site. The actual number of affordable units required may increase or decrease proportionally along with the actual number of resort and residential units developed by the applicant. Stated in 1988 dollars and subject to adjustment for inflation, the dollar value equivalent of the affordable housing requirement involving nine hundred forty-five (945) affordable units shall be a maximum of seven million five hundred seventy-five thousand one hundred twenty dollars (\$7,575,120). This value may be adjusted annually on the effective date of the change of zone ordinance by the Planning Director in consultation with the Office of Housing and Community Development based on mutually acceptable cost indices. The affordable housing requirement shall be implemented concurrently with the completion of units for the resort/residential project. If an affordable housing demand, or portion thereof, does not exist at the time a particular phase of a resort is ready to be developed, the requirement may be deferred and the phase of resort development allowed to be developed. An in lieu payment may be made in cash, through the provisions of services, or by other acceptable means to satisfy the affordable housing condition. The method of satisfying the affordable housing requirement must be approved by the County Housing Agency, subsequent to review and recommendation by the

Office of Housing and Community Development, prior to the issuance of Final Plan Approval for any phase or increment of the proposed resort/residential development. Affordable units provided to satisfy the requirements of these conditions shall, as a guide, utilize the following distribution: 17% affordable to families earning less than 80% of the median family income; 33% affordable to families earning between 80% to 120% of median family income; and 50% affordable to families earning between 120% to 140% of median family income; (L) a job training program for the operating phase of the hotels shall be developed and submitted to the Planning Department for review and approval prior to the receipt of final plan approval for each of the proposed hotels; (M) a construction housing mitigation plan shall be submitted to the Planning Department for review and approval prior to receipt of final plan approval for each of the proposed hotels. The plan shall include a regular reporting schedule to allow the Planning Department to monitor the construction housing impact; (N) an archaeological mitigation plan for archaeological site preservation and data recovery shall be approved by the Planning Department, in consultation with the Department of Land and Natural Resources-Historic Sites Section prior to any land preparation activity being conducted on the property; (O) the Petitioner shall develop an archaeological resources management plan which shall include considerations for the Kaloko National Historic Park and which shall be completed prior to the design of the

marina; (P) should any unanticipated archaeological sites be uncovered during land preparation activity, work within the affected area shall cease and the Planning Director shall be immediately notified. Work within the affected area shall not resume until clearance is obtained from the Planning Director; (Q) an emergency preparedness and response plan shall be submitted to the Planning Director and the Civil Defense Agency for review and approval prior to receipt of occupancy for the first hotel; (R) an anchialine pond Management Plan shall be submitted to and approved by the Planning Director within one year from the effective date of the ordinance or prior to conducting any land preparation activity in the affected area. The Management Plan shall be developed in consultation with the Army Corps of Engineers and the U. S. Fish and Wildlife Service. The objective of its Management Plan shall be to:

- 1) Maintain the environmental integrity of the existing ponds,
- 2) Protect and manage this resource to provide educational and interpretive opportunities to the public,
- 3) Control and monitor construction activities so that impacts may be identified and mitigated to avoid any detrimental impacts to the pond and
- 4) Provide for a pond manager to implement the management plan and conduct scientific monitoring programs.

The Management Plan will detail the area of ponds to be preserved, the dimensions of buffer zones surrounding the pond area, allowable activities within the pond areas, if any, and establish a pond management program; (S) mauka-makai public

access(es) shall be provided. A lateral, shoreline public access throughout the length of the property shall also be provided. Public parking shall be established near the shoreline following the ratio of one public parking stall to be provided for every 10 hotel, condominium and residential units. Restroom/shower facilities shall be provided at each mauka-makai public access. Public parking stalls and restroom/shower facilities shall be provided concurrently with the development of the first hotel, the Marina Commercial Village, residential subdivision or condominium development. An easement shall be recorded with the State Bureau of Conveyances for the public access(es) and parking areas. The location, time of construction and/or availability, restrictions on uses, signage and related improvements for the public shoreline access(es) and parking areas shall be approved by the Planning Department. In lieu of providing a mauka-makai access and facilities at either the north or south end of the property, the Planning Director may substitute a payment to the County in an amount equal to the cost of such access, parking stalls and restroom/shower facilities, which payment shall be used by the County for the establishment of a public campground in Kona. Use of the mauka-makai and shoreline public access(es) parking stalls and restroom/shower facilities shall be afforded to the public on a 24-hour basis, subject to a public access plan to be approved by the Planning Department.

The use of the public access(es) and facilities after sundown shall be primarily for those persons wishing to shore-fish at night. The public access plan shall provide for adequate rules with respect to safety, health and welfare of the public, including persons who are guests and residents on the resort. The rules may include a system of permits or passes to regulate the use of the access(es) and facilities after sundown; (T) a water quality and marine life monitoring and mitigation plan shall be developed and operated jointly with the developer, the National Energy Laboratory of Hawaii, the Hawaii Ocean Science Technology Park, The Ocean Recreation Council of Hawaii (TORCH) and the National Park Service. The plan shall be submitted to and approved by the Planning Department in consultation with the National Energy Laboratory of Hawaii, the Hawaii Ocean Science Technology Park, the National Park Service and The Ocean Recreation Council of Hawaii, prior to the issuance of a grading permit and/or prior to any land preparation activity being conducted on the golf course, hotel site, condominium site or marina. Construction of the marina basin shall take place "in the dry" behind a shoreline berm which will not be removed until construction of the marina has been completed and sediment within the marina basin has had the opportunity to settle out of the water. During construction of the marina entrance channel, water quality conditions shall be monitored to assure compliance with construction conditions likely to be imposed by the U. S. Army Corps of Engineers. Shoreline

modifications including extensive vegetation removal, beach alteration and structural modifications shall be minimized. The applicant shall make available for public review, at the Planning Department, an annual report which shall be prepared by the above-mentioned organizations, summarizing the results of the monitoring program and any mitigation efforts which may have been undertaken; (U) all utility lines shall be underground; (V) all other applicable laws, rules, regulations and requirements, including those conditions imposed by the State Land Use Commission, shall be complied with; (W) an annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of zone change. 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 with and the Planning Director acknowledges that further reports are not required; (X) 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 developer's election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance; and (Y) 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 the

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; and 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 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 to a more appropriate designation.

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.

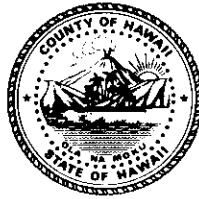
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: October 5, 1988
Date of 1st Reading: October 5, 1988
Date of 2nd Reading: October 19, 1988
Effective Date: November 7, 1988

R.B. LEGASPI
County Clerk



TOMIO FUJII
Deputy County Clerk
HARRY A. TAKAHASHI
Legislative Auditor

OFFICE OF THE COUNTY CLERK

County of Hawaii
Hawaii County Building
25 Aupuni Street
Hilo, Hawaii 96720

NOTE

On Bill No. 627, Draft 4, Ordinance No. 88-159,
reference is made to a map attached hereto, marked
Exhibit "A".

Said exhibit is not part of the duplicate copies of this
ordinance due to its size, but is available for viewing in
the Office of the County Clerk.

If further information is needed, call 961-8255.

R. B. Legaspi

R. B. Legaspi
COUNTY CLERK

American Trust Co. of Hawaii, Inc. (Trustee)
GRANT 4536 to J.A. Maguire

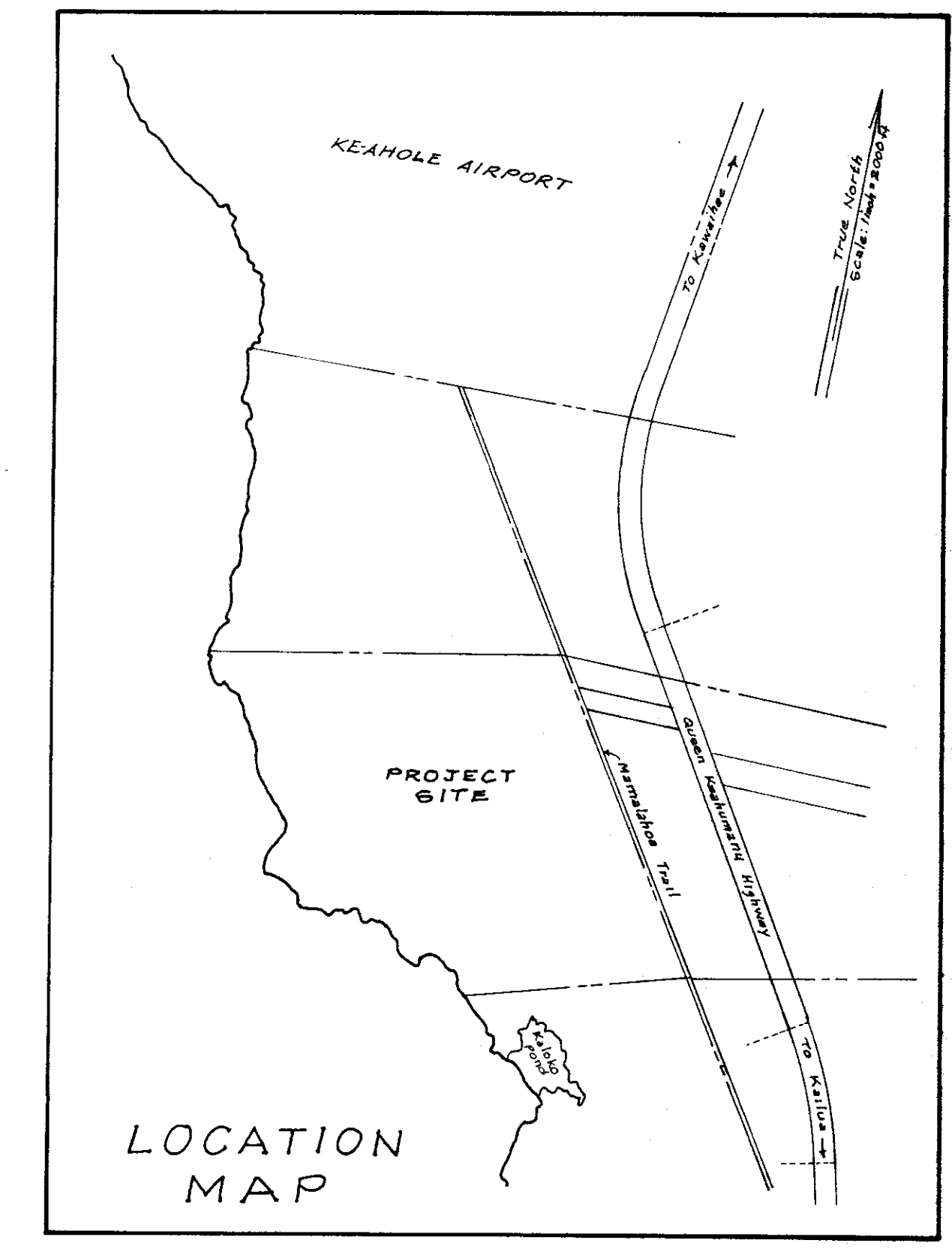
ZONING MAP
KOHANAIKI RESORT
BEING GRANT 3086 TO KAPENA
AT KOHANAIKI, NORTH KONA
ISLAND OF HAWAII, HAWAII
TAX MAP KEY: 3RD DIV. 7-3-09:3



1001 Bishop Street
Honolulu, Hawaii 96813
August 15, 1988



M/E PACIFIC INC.
This work was prepared by me
or under my supervision.
Douglas J. Ohta
Registered Land Surveyor
Certificate No. 5620



LAND COURT APPLICATION 1872
UNITED STATES OF AMERICA (OWNER)

Coordinates Referred to "KEAHOLE-2" Δ