

COUNTY OF HAWAII STATE OF HAWAII



Bill No. 191

ORDINANCE NO. 90 007

AN ORDINANCE AMENDING SECTION 25-91 (NORTH AND SOUTH KOHALA DISTRICTS ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM UNPLANNED (U) TO AGRICULTURAL (A-1a) AT KAPAANUI AND KOU, NORTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 5-7-02:PORTION OF 11.

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

SECTION 1. Ordinance No. 86 82 is amended as follows:

"SECTION 2. This change in district classification is conditioned upon the following: (A) the petitioner, its successors or assigns shall be responsible for complying with all of the stated conditions of approval; (B) the property shall be zoned in two increments. The first increment shall consist of a maximum of 130 contiguous acres, and the second, the remaining area. The zoning for the second increment shall become effective upon subdivision approval of the first increment; and further, it shall be demonstrated to the satisfaction of the Planning Director that either 1) agricultural activity is being conducted on the land within the first increment, or 2) that building permits have been issued for single family dwellings and construction has been partially completed to the extent that roofs have been constructed on a minimum of twenty-five percent of the lots

within the first increment. For the purpose of this condition "agriculture" shall be defined as the cultivation of crops, including but not limited to flowers, vegetables, foliage, fruits, forage and timber; game propagation; raising of livestock, including but not limited to poultry, bees, fish or other animal or aquatic life that are propagated for economic or personal use. An agricultural activity will be considered (a) if such activity is implementing a conservation program for the affected property(ies), as approved by the applicable soil and water conservation district directors and filed with the Soil Conservation Service; (b) if it provides a source of income to the person(s) who reside on the property; or (c) if the property qualifies for an agricultural use assessment in accordance with applicable Real Property Tax provisions. The execution of a Farm Dwelling Agreement may also suffice in lieu of the above requirements; (C) revised subdivision plans shall be submitted to the Planning Department [within one year from the effective date of the change of zone] by August 19, 1991. Final subdivision approval shall be secured within one year from the date of tentative subdivision approval; (D) [substantial] construction of [on-site and off-site improvements] road and drainage improvements, as required by the Department of Public Works, and including underground telephone, water, electrical and cable T.V. utility lines shall commence within [three (3) years] one (1) year from the

[effective] date of [the change of zone] approval of the construction plans; (E) prior to the commencement of construction, a plan for monitoring any potential pollution to the coastal reef caused by the construction shall be submitted to the Planning Department for its approval, which plan shall provide for precautionary measures to be taken sufficient to prevent eroded soils and other suspended sediments ("trupidity"), construction materials, waste and debris from passing into the near shore waters; (F) a fifty-foot wide landscape easement along the property's frontage along Akoni Pule Highway shall be set aside and delineated on the subdivision plans. A landscaping plan for the easement area shall be submitted to the Planning Director for review and approval prior to issuance of final subdivision approval. Said plan shall depict the landscaping, identify the plant species to be utilized, and outline a program for ongoing maintenance of the easement area; (G) underground telephone, water, electrical and cable T.V. utility lines shall be constructed throughout the property; no overhead utility lines shall be permitted; (H) the areas of the property within the State Land Use conservation district shall be set aside as public shoreline access areas via covenants recorded with the Bureau of Conveyances. These covenants shall be encumbrances running with the land and shall be binding on all parties and persons claiming under them; (I) prior to the sale of any lots,

restrictive covenants shall be recorded with the Bureau of Conveyances regarding size of structures, materials, and building design on the property to insure the quality of the development; (J) the height limit for any structure constructed on the property shall be thirty-five feet; (K) water and electrical lines shall be provided to the pavilion located on the adjoining property designated as Kapaa Park prior to the completion of all on-site improvements; (L) fire hydrants shall be installed on the property; (M) the method of sewage disposal shall meet with the approval of the appropriate government agencies; (N) a drainage system shall be installed in accordance with the requirements of the Department of Public Works; (O) access(es) to the proposed subdivision shall meet with the approval of the State Department of Transportation, Highways Division. The lots shall not have direct access from Akoni Pule Highway; (P) the complex of archaeological sites known as "Kapaanui Village" shall be preserved in place; (Q) should any unanticipated archaeological or historic features be uncovered during land preparation activities, work shall cease immediately and the Planning Department shall be notified. Work shall not resume until clearance has been obtained from the Planning Department; (R) an annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of this amendment. 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; and [(R)] (S) all other applicable rules, regulations and requirements shall be complied with. The County Council, for good cause shown, may grant extensions to the foregoing time conditions. Should any of the foregoing conditions not be met or substantially complied within a timely fashion, without good causes shown, the Planning Director shall initiate proceedings to rezone the property to its original or more appropriate designation."

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:

  
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: January 16, 1990  
Date of 1st Reading: January 16, 1990  
Date of 2nd Reading: February 7, 1990  
Effective Date: February 13, 1990