

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 340

ORDINANCE NO. 90 146

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 CONDITION A AND THE ADDITION OF CONDITIONS B, C, D AND E OF ORDINANCE NO. 513, WHICH RECLASSIFIED 86.50 ACRES OF LAND FROM AN AGRICULTURAL (A-3a) TO AN AGRICULTURAL (A-1a) ZONED DISTRICT AT OOMA 2ND, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-3-07:37.

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

SECTION 1. Ordinance No. 513 is amended as follows:

*SECTION 2. Section 1 of this ordinance shall take effect forthwith upon the conditions that (A) the area be zoned in [three (3)] two increments. The first increment shall consist of thirty-six (36) lots; the second shall consist of [twenty (20) lots; and the third the remaining lots] the remaining area. 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 those units--on nine (9) or 25 per cent of the lots in the first increment[. The effective date of zoning for the third increment shall be after development, as defined previously, has occurred on a total of eighteen (18) lots of the previous increment or increments. This is to assure that a minimum of

twenty-five (25) per cent of the lots of the entire requested area would have houses constructed on them; and (B) the owner of lessee of the subject area submit a subdivision plan and secure preliminary approval of the first increment within one (1) year from the date of approval of the change of zone request. Should this condition not be met, the Planning Commission shall reserve the right to initiate action to rezone the subject area to its former designation.]; (B) subdivision plans for the final increment shall be submitted within one year from the effective date of this amendment. Final subdivision shall be secured within one year from the date of receipt of tentative subdivision approval; (C) all other applicable laws, rules, regulations, and requirements shall be complied with; (D) 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; (E) 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

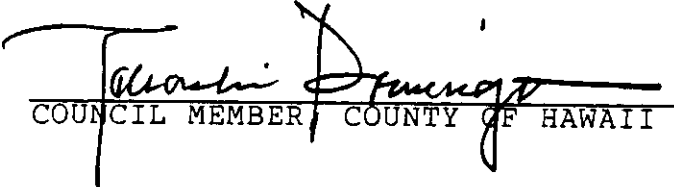
complied with and the Planning Director acknowledges that further reports are not required; (F) an extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances: 1) the non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, 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; 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 shall initiate rezoning of the area 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 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:	November 8, 1990
Date of 1st Reading:	November 8, 1990
Date of 2nd Reading:	November 21, 1990
Effective Date:	November 30, 1990