

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 409

ORDINANCE NO. 91 36

AN ORDINANCE AMENDING SECTION 25-87 (NORTH KONA ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, RELATING TO MODIFICATIONS OF CONDITIONS B AND I OF ORDINANCE NO. 88 88, WHICH RECLASSIFIED 7.099 ACRES OF LAND FROM AGRICULTURAL (A-5a) TO RESIDENTIAL-AGRICULTURAL (RA-1a) AT KANAUEUE 1ST AND 2ND, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-9-12:18.

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

SECTION 1. Ordinance No. 88 88 is amended as follows:

"SECTION 2. This change in district classification is conditioned upon the following: A) the applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval; B) subdivision plans shall be submitted for tentative approval within one year from the effective date of the change of zone. Final subdivision approval shall be secured within [one year from the date of receipt of tentative subdivision approval] six months from the effective date of this amendment; C) a 50-foot right-of-way to allow for the eventual extension of Mamao Street to the northern boundary of the subject property shall be included at the time of subdivision approval; D) a drainage system meeting with the approval of the Department of Public Works shall be installed; E) should any unanticipated archaeological/historical sites or features of importance be uncovered during land preparation activities, work in the affected area shall cease immediately and the Planning Director shall be notified.

Work in the affected area shall not resume until such time that clearance is obtained from the Planning Director;

F) restrictive deed covenants for each lot shall be submitted to the Planning department for review and approval prior to its submittal to the Bureau of Conveyances for recordation with final subdivision plat maps. These covenants shall include but not necessarily be limited to the following: 1) each developable parcel shall be subject to the agricultural use requirements of the County Zoning Code; 2) each developable parcel shall be restricted from any further subdivision. The restrictive covenants contained herein are encumbrances running with the land, and shall be binding on all parties and persons claiming under them until such time that the land is rezoned to an alternative use; G) appropriate building permits shall be applied and secured for all structures that were illegally converted into residences prior to receiving final subdivision approval, and the applicant shall be responsible to abide by and adhere to appropriate penalties or fine imposed by the County for the illegal conversions; H) all other applicable rules, regulations and requirements shall be complied with, including those of the State Department of Health; and I) an initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances: a) the non-performance is the result of 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, b) granting of the time extension would not be contrary to the general plan or zoning code; c) granting of the time extension would not be contrary to the original reasons for the granting of the change of zone; d) 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 e) 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] shall initiate rezoning of the area to its original or more appropriate designation.

SECTION 3. 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."

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: April 3, 1991
Date of 1st Reading: April 3, 1991
Date of 2nd Reading: April 17, 1991
Effective Date: April 24, 1991

APPROVED AS TO FORM AND LEGALITY:

DEPUTY


CORPORATION COUNSEL

DATED: FEB 28 1991



AMENDMENT TO THE ZONING CODE

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 AGRICULTURAL (A-5a) TO RESIDENTIAL-AGRICULTURAL (RA-1a) AT KANAUEUE 1ST AND 2ND, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

NOV. 24, 1987

TMK: 7-9-12:18

EXHIBIT "A"