

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 444

ORDINANCE NO. 91 71

AN ORDINANCE AMENDING SECTION 25-89 (KAILUA URBAN ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, RELATING TO MODIFICATIONS OF CONDITIONS B AND L OF ORDINANCE NO. 89-54, WHICH RECLASSIFIED 2.23 ACRES OF LAND FROM MULTIPLE FAMILY RESIDENTIAL (RM-1) TO RESORT HOTEL (V-1) ZONED DISTRICT, PUA A 2ND, NORTH KONA, HAWAII, TAX MAP KEY 7-5-9:40.

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

SECTION 1. Ordinance No. 89-54 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 stated conditions of approval; (B) A Special Management Area (SMA) Use Permit application for the proposed development shall be filed with the Planning Department within one year from the effective date of [the change of zone] this amendment; (C) A drainage system shall be installed in accordance with the requirements of the Department of Public Works; (D) Curbs, gutters and sidewalk improvements be provided along Alii Drive meeting with the approval of the Department of Public Works prior to receipt of occupancy permit for the proposed development; (E) Other roadway improvements along the Kuakini Highway and Alii Drive frontages, including accesses to the property, shall be provided in accordance with the requirements of the Department of Public Works. A comprehensive traffic management proposal,

approved by the Department of Public Works, shall be submitted with the Special Management Area (SMA) Use Permit application; (F) An intensive archaeological survey and mitigation plan be submitted with the SMA Use Permit application; (G) Should any unanticipated archaeological sites be uncovered during land preparation activity, work within the affected area shall cease immediately and the Planning Director notified. Work within the affected area shall not resume until clearance is obtained from the Planning Director; (H) The method of sewage disposal shall meet with the approval of the appropriate governmental agencies; (I) All applicable County and State laws, rules, regulations and requirements shall be complied with; (J) 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; (K) 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; and (L) 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 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; 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] 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 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:

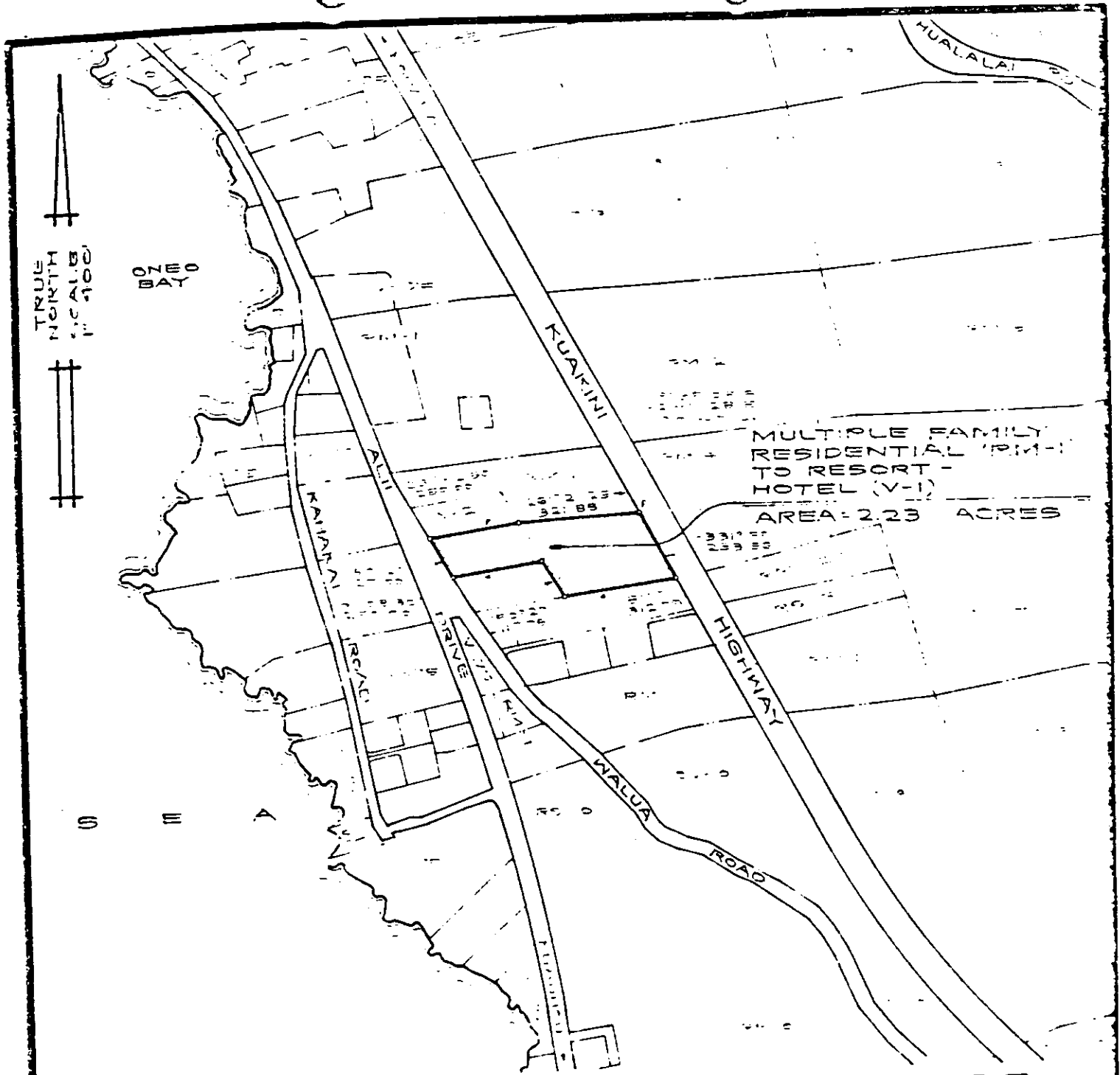
Ishaki Dancy
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: July 3, 1991
Date of 1st Reading: July 3, 1991
Date of 2nd Reading: July 18, 1991
Effective Date: July 24, 1991

APPROVED AS TO FORM AND LEGALITY:

Paul Allen
DEPUTY CORPORATION COUNSEL
DATE: MAY 30 1991



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-89 (KAILUA URBAN ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM MULTIPLE FAMILY RESIDENTIAL (RM-1) TO RESORT-HOTEL (V-1) AT PUA'A 2ND. NORTH KONA, HAWAII.

PREPARED BY PLANNING DEPARTMENT
COUNTY OF HAWAII

FEB 22 1989

TMX: 7-5-09:40

EXHIBIT "A"