

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 532

ORDINANCE NO. 92 76

AN ORDINANCE AMENDING SECTION 25-87 (NORTH KONA ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, RELATING TO MODIFICATION OF CONDITION F OF ORDINANCE NO. 89-77, WHICH RECLASSIFIED 18.4743 ACRES OF LAND FROM UNPLANNED (U) TO MULTIPLE FAMILY RESIDENTIAL (RM-2) AT PUAPUAA 1 AND 2, NORTH KONA, HAWAII, TAX MAP KEY 7-5-20:73, 74 and 75.

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

SECTION 1. Ordinance No. 89-77 is amended as follows:

"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) The applicant shall submit the required water commitment payment to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety days from the date of approval of the change of zone. The zoning on the property shall not be in effect until the payment is accepted by the Department of Water Supply and a water commitment is formally issued; (C) Plans for the consolidation of the affected properties shall be submitted within one year from the effective date of the change of zone; (D) The applicant shall construct the access from Alii Drive according to the requirements of the Department of Public Works. Also, a left-turn storage lane shall be constructed, meeting with the approval of the Department of Public Works; (E) The applicant shall construct an access road to the mauka

boundary of the property. The access road, or stub-out, which shall serve as a mauka access when the Alii Highway is completed, and other improvements as may be required, shall be designed and constructed according to the requirements of the Department of Public Works. The location of this access road shall meet with the approval of the Department of Public Works;

(F) Final Plan Approval for the entire development shall be secured from the Planning Department within [one year] six (6) months from the effective date of [the change of zone] this amendment. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured;

(G) Construction shall commence within one year from the date of receipt of Final Plan Approval and be completed within three years thereafter;

(H) An intensive archaeological survey and mitigation plan shall be submitted to the Planning Department for review and approval at the time of plan approval review and/or prior to any land preparation activity being conducted on the property;

(I) Should any unanticipated archaeological/historic 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 are shall not resume until such time that clearance is obtained from the Planning

Director; (J) access(es) to the property shall meet with the approval of the Department of Public Works; (K) Should an Improvement District be implemented for the construction of the proposed Alii Highway, the applicant, successors or assigns shall automatically be a participant in the Improvement District; (L) An emergency preparedness and response plan shall be submitted to the Planning Department and Hawaii County Civil Defense Agency for review and approval prior to the issuance of a building permit; (M) The method of sewage disposal shall meet with the approval of the appropriate governmental agencies; (N) To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented as proposed, the applicant shall work with the Office of Housing and Community Development and the Planning Department to formulate a housing plan for the development to assure it addresses the affordable housing needs of the community. This housing plan shall be approved by the County Housing Agency prior to the issuance of a building permit for the project; (O) All other applicable laws, rules, regulations and requirements, including those of the Department of Water Supply relative to the provision of additional water system improvements, shall be complied with; (P) 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; (Q) An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the 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 (R) 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; 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 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:


COUNCIL MEMBER, COUNTY OF HAWAII

Kona , Hawaii

Date of Introduction: May 6, 1992
Date of 1st Reading: May 6, 1992
Date of 2nd Reading: June 17, 1992
Effective Date: June 25, 1992

APPROVED AS TO FORM AND LEGALITY:


DEPUTY CORPORATION COUNSEL

DATED: 6/19/92