

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 565
(Draft 2)

ORDINANCE NO. 92 82

AN ORDINANCE 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 UNPLANNED (U) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT KALAOA 4TH, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-3-05:88.

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

SECTION 1. Section 25-87, Article 3, Chapter 25 (Zoning Code) of the Hawaii County Code, is amended to change the district classification of properties described hereinafter as follows:

The district classification of the following area situated at Kalaoa 4th, North Kona, Hawaii, shall be Single Family Residential (RS-10):

Beginning at the Northwesterly corner of this parcel of land, being also the Southwesterly corner of Lot B-2 and being a point on the Easterly side of Ke'oKe'o Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 6,928.18 feet South and 10,747.49 feet West and running by azimuths measured clockwise from True South:

1. 276° 38' 46" 1,150.01 feet along Lot B-2 and along the remainder of Grant 1607 to Nawahie to a point;

2. 6° 50' 227.95 feet along the Westerly side of 'Ili'Ili Street to a point;

Thence, for the next four (4) courses following along Grant 2972 to Kaapau and Kama:

3. 99° 59' 241.98 feet along Lots 86 and 81 of Kona Palisade, Unit I (File Plan 1061) to a point;
4. 99° 32' 30" 500.50 feet along Lots 80, 73, 72 and 65 of Kona Palisade, Unit I (File Plan 1061) to a point;
5. 94° 45' 30" 347.50 feet along Lots 65, 64 and 57 of Kona Palisade, Unit I (File Plan 1061) to a point;
6. 100° 37' 30" 61.31 feet along Lot 57 of Kona Palisade, Unit I (File Plan 1061) to a point;
7. 186° 50' 195.77 feet along the Easterly side of Ke'oKe'o Street to the point of beginning and containing an area of 5.362 Acres.

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. These changes in district classification are 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 Policy" within ninety (90) days from the effective date of the change of zone ordinance; (C) The property shall be subdivided in two increments. The first increment shall consist of a maximum of thirteen (13) lots based upon the twelve (12) additional units of water rights held by the applicants plus one (1) existing unit. [s]Subdivision plans shall be submitted within one year from the effective date of the change of zone. Final Subdivision Approval shall be secured within two years from the date of tentative subdivision approval provided, however, that final subdivision approval for the first increment shall not be granted prior to completion of the Hinalani Street extension. The second increment shall consist of the subdivision of the remaining property. Subdivision plans shall be submitted for the second increment only after the department of water supply grants the applicant the necessary water commitments for each of the remaining lots of the second increment; (D) construction of single-family dwellings shall commence on twenty-five percent of the proposed lots within three years from the date of receipt of Final Subdivision Approval; (E) improvements within the proposed subdivision shall include underground utilities; (F) as agreed to by the applicant, restrictive covenants in the deeds of all the residential lots shall prohibit the construction of ohana dwelling units,

except for the lot containing an existing ohana unit. A copy of the proposed covenant(s) shall be submitted to the Planning Department for review and approval prior to final subdivision approval of the residential subdivision. Written assurance for implementation of this condition, which has met with the approval of the Planning Department, shall be submitted to the Planning Department prior to final subdivision approval of the residential subdivision. A copy of a typically recorded covenant shall be filed with the Planning Department within one year from the date of final subdivision approval of the residential subdivision; (G) access to the subject property shall meet with the approval of the Department of Public Works. The Planning Director, in consultation with the Department of Public Works, shall determine whether curb, gutter, and sidewalk improvements are needed for the interior subdivision roads. If it is determined that the said improvements are needed, then the curb, gutter, and sidewalk improvements shall be provided; (H) a drainage system shall be installed in accordance with the requirements of the Department of Public Works; (I) an archaeological report shall be submitted to the Planning Department for review and approval in consultation with the State Department of Land and Natural Resources prior to any further land alteration. The report shall include an archaeological survey and appropriate mitigation plan; (J) should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human

burials, rock or coral alignments, pavings or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken; (K) a 10-foot landscape buffer shall be provided along the southern side of the property, parallel to Ka'iminani Drive to reduce any visual impacts; [(K)] (L) to ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicant shall work with the Office of Housing and Community Development and the Planning Department to formulate a housing plan for the development, which shall be consistent with the interim affordable housing policy of the County as contained in the Hawaii County Housing Agency Resolution No. 65 or subsequent actions. This housing plan shall be approved by the County Housing Agency prior to final subdivision approval provided that the applicant shall notify the County Housing Agency of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interest in the property; [(L)] (M) all other applicable laws, rules, regulations and requirements shall be complied with; [(M)] (N) 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 the performance in accordance with the requirements of the Unified Impact Fees Ordinance; [(N)] (O) 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; and, [(O)] (P) 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 the 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 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: July 1, 1992
Date of 1st Reading: July 1, 1992
Date of 2nd Reading: July 15, 1992
Effective Date: July 22, 1992

APPROVED AS TO FORM AND LEGALITY:

CORPORATION COUNSEL

DATE: _____

