

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 33  
(Draft 2)

ORDINANCE NO. 93 26

AN ORDINANCE AMENDING SECTION 25-87 (NORTH KONA ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, RELATING TO TIME EXTENSIONS TO CONDITIONS G AND I AND FURTHER AMENDING CONDITION I, RELATIVE TO THE UNIFIED IMPACT FEES ORDINANCE, TO A NEW CONDITION J WITH REMAINING CONDITIONS TO BE REALPHABETIZED, OF ORDINANCE NO. 84-23 AND FURTHER AMENDED BY ORDINANCE NOS. 84-42, 88-4, 90-62 AND 91-96 WHICH RECLASSIFIED CERTAIN LANDS FROM UNPLANNED (U) TO MULTIPLE FAMILY (RM-5) AND SINGLE-FAMILY RESIDENTIAL (RS-15) ZONED DISTRICT AT HOLUALOA 1 AND 2, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-6-21; 4, 9-13, AND 15-17.

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

SECTION 1. Ordinance No. 84-23 as amended by Ordinance Nos. 84-42, 88-4, 90-62 and 91-96 is further amended as follows:

"SECTION 2. These changes in district classification are conditioned upon the following: (A) the zoning for the property shall be effective only after: (1) there are assurances satisfactory to the Departments of Water Supply and Planning, upon consultation with the State Department of Health, and the Division of Water and Land Development of the State Department of Land and Natural Resources, that a water source of sufficient quality and quantity has been established within two years from the effective date of this ordinance; provided that a maximum one-year extension to the two-year time limit may be granted by the Planning Director with reasonable and sufficient justification; and (2) an agreement, accompanied by an appropriate surety bond or other acceptable security, is executed with the Department of Water Supply for the actual

development of a proven water source and its water transmission and distribution system within one year from the official date of compliance with condition A(1); provided that a one-year extension to the one-year time limit may be granted by the Planning Director with reasonable and sufficient justification; or (3) the Department of Water Supply issues a water commitment for the proposed development; (B) no subdivision or development of any portion of the land shall occur unless and until condition A has been complied with; (C) the Planning Director shall be mandated to initiate action for the repeal of this ordinance if conditions A or B have not been complied with; (D) the petitioner, its assigns or successors, shall be responsible for complying with all conditions of approval; (E) the zoning for the 49± acres designated by the State Land Use Commission as its second zoning increment shall not become effective until that land is certified by that commission to be within the Urban District; (F) the RS zoned area shall be developed in two increments. The first increment shall consist of a maximum of 59.5± contiguous acres, and the second, the remaining area. The effective date of zoning for the second increment shall be after development has occurred in the first increment, as determined by the Planning Director.

"Development" means that building permits have been issued for dwelling units and construction has been partially completed to the extent that roofs have been constructed on a minimum of twenty-five percent of the number of units proposed for the

entire area of 103.4± acres. In lieu of actual construction, the petitioner may enter into an agreement with the Hawaii County Housing Agency to assure the County that the dwellings will be constructed within a given period. Such agreement shall be secured by a surety bond, certified check, or other security acceptable to Corporation Counsel and the Hawaii County Housing Agency. Upon final execution of such agreement and filing of the security with the Hawaii County Housing Agency, the zoning of the second increment may be deemed by the Planning Director to be effective prior to the actual construction of the dwellings in the first increment provided that condition E is complied with; (G) subdivision plans for the first increment of the RS zoned area shall be submitted within one year from the effective date of the zoning. Final subdivision approval shall be secured within two years from the effective date of this amendment; (H) the RM zoned area shall be developed in two increments. The first increment shall consist of a maximum of 42 acres of the Multiple Family Residential zoned land and the second increment, the remaining area. The effective date of zoning for the second increment shall be after "development," as defined in condition F, has occurred in the first increment, as determined by the Planning Director; (I) plans for the development within the first increment of the RM zoned area shall be submitted to the Planning Department and final plan approval secured within two years from the effective date of this amendment.

Construction shall commence within one year from the date of receipt of final plan approval and be completed within three years thereafter; (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 shall be credited towards the requirements of the Unified Impact Fees Ordinance; (K) housing opportunities for Hawaii residents shall be provided in accordance with the condition imposed by the State Land Use Commission. The number of units and manner in which they are to be provided shall meet with the approval of the Hawaii County Housing Agency; (L) improvements to the intersections with Kuakini Highway and the Kuakini Highway Extension shall be constructed meeting with the approval of the State Department of Transportation, Highways Division. The intersection improvements shall be constructed concurrently with the development of the first increment of the RS or RM zoned areas, whichever occurs first; (M) no direct access shall be provided for the lots within the RS zoned area from the mauka-makai collector road; (N) the roadways within the RM zoned area which are proposed for dedication shall be constructed to dedicable standards with curbs, gutters, and sidewalks meeting with the approval of the Department of Public Works. Where a roadway crosses a zone line or if a zone line should divide a roadway, the curbs, gutters, and sidewalks shall be provided for the entire

right-of-way and shall continue to the nearest intersection in order to avoid telescoping and to provide consistent improvement; (O) at a minimum, roadways within the RS zoned area shall be provided with paved shoulders and paved swales meeting with the approval of the Department of Public Works; (P) the method of sewage disposal shall meet with the approval of the appropriate governmental agencies; (Q) a drainage master plan shall be submitted to the Department of Public Works for review and approval prior to issuance of any subdivision or plan approvals. The plan shall include, as a minimum, hydrological and hydraulic calculations for all components of the drainage system, a construction timetable for all elements of the system, and an analysis of downstream impacts. Further, mitigating measures as approved by the Department of Public Works shall be taken to eliminate any downstream impacts; (R) an intensive archaeological survey shall be conducted for the entire property and a report shall be submitted to the Planning Department prior to issuance of any subdivision or plan approvals; (S) should any unanticipated archaeological sites be found during land preparation activities, work shall immediately stop and the Planning Department notified. Work shall not resume in the affected area until clearance is given by the Planning Department; and, (T) and 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 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: March 10, 1993  
Date of 1st Reading: March 10, 1993  
Date of 2nd Reading: March 24, 1993  
Effective Date: April 7, 1993

APPROVED AS TO FORM AND LEGALITY:

  
DEPUTY CORPORATION COUNSEL

DATED: 3/25/93

