

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 5
(Draft 6)

ORDINANCE NO. 93 118

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-15) AT HIENALOLI 4TH, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-5-10:PORTION 62.

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 property described hereinafter as follows:

The district classification of the following area situated at Hienaloli 4th, North Kona, Hawaii, shall be Single Family Residential (RS-15):

Beginning at the Southwesterly corner of this parcel of land, being also the Northwesterly corner of Lot 75 of Kona Heights Subdivision, Increment I (File Plan 1075), and being a point on the Easterly side of Queen Kaahumanu Highway (F.A.P. No. 11-A-03-69) the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAILUA (NORTH MERIDIAN)" being 1,380.79 feet South and 4,803.08 feet East and running by azimuths measured clockwise from True South:

Thence, following along the Easterly side of Queen Kaahumanu Highway (F.A.P. No. 11A-03-69) on a curve to the left with a radius of 4,961.07 feet, the chord azimuth and distance being:

1. 141° 42' 12.3" 164.38 feet to a point;

Thence, for the next five (5) courses following along the middle of stonewall and along Land Commission Award 7716, Apana 5 to Keelikolani, the direct azimuths and distances being:

2. 255° 08' 10" 677.48 feet to a point;
3. 261° 36' 654.10 feet to a point;
4. 341° 32' 25.17 feet to a point;
5. 250° 02' 30" 1,113.65 feet to a point;
6. 252° 56' 30" 646.91 feet to a point;
7. 345° 13' 222.30 feet along Lot 2 of this subdivision and along the remainders of Parcel 1-A and Royal Patents 1600 and 1930, Land Commission Award 387, Part 4, Section 2 to the American Board of Commissioners for Foreign Missions to a point;

Thence, for the next thirteen (13) courses following along Land Commission Award 8524-B, Part 3 to Peke:

8. 75° 13' 30.00 feet along Lots 56 and 57 of Kona Heights Subdivision, Increment II (File Plan 1077) to a point;
9. 72° 12' 294.60 feet along Lots 57, 58, 59, 60 and 61 of Kona Heights Subdivision, Increment II (File Plan 1077) to a point;
10. 72° 05' 340.60 feet along Lots 61, 62, 63, 64 and 65 of Kona Heights Subdivision, Increment II (File Plan 1077) to a point;
11. 74° 38' 283.50 feet along Lots 65, 66, 67 and 68 of Kona Heights Subdivision, Increment II (File Plan 1077) to a point;
12. 76° 19' 204.20 feet along Lots 68 and 69 of Kona Heights Subdivision, Increment II (File Plan 1077), along Lot 126 of Kona Heights Subdivision, Increment I (File Plan 1075) and along the Northerly end of Kakalina Street to a point;

- | | | | |
|-----|---------|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 13. | 70° 14' | 187.10 | feet along Lots 108, 109 and 110 of Kona Heights Subdivision, Increment I (File Plan 1075) to a point; |
| 14. | 72° 33' | 352.40 | feet along Lots 110, 111, 112, 113, 114 and 116 of Kona Heights Subdivision, Increment I (File Plan 1075) to a point; |
| 15. | 77° 39' | 220.50 | feet along Lots 116, 117, and 118 of Kona Heights Subdivision, Increment I (File Plan 1075) to a point; |
| 16. | 82° 26' | 246.60 | feet along Lots 118 and 119 of Kona Heights Subdivision, Increment I (File Plan 1075), along the Northerly end of Welo Street and along Lot 55 of Kona Heights Subdivision, Increment I (File Plan 1075) to a point; |
| 17. | 85° 26' | 176.30 | feet along Lots 55, 56 and 57 of Kona Heights Subdivision, Increment I (File Plan 1075) to a point; |
| 18. | 77° 04' | 400.60 | feet along Lots 57, 58, 59, 60 and 61 of Kona Heights Subdivision, Increment I (File Plan 1075) to a point; |
| 19. | 83° 05' | 173.80 | feet along Lots 73 and 74 of Kona Heights Subdivision, Increment I (File Plan 1075) to a point; |
| 20. | 75° 05' | 117.72 | feet along Lots 74 and 75 of Kona Heights Subdivision, Increment I (File Plan 1075) to the point of beginning and containing an area of 13.534 Acres, more or less. |

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

SECTION 2. This change in district classification is conditioned upon the following: (A) the applicant, its successors or assigns shall be responsible for complying with all of the stated conditions of approval; (B) subdivision plans shall be submitted and Tentative Subdivision Approval secured within one (1) year from the effective date of this ordinance. Final Subdivision Approval shall be secured within three (3) years thereafter; (C) 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 policies. 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 prior to visible commencement of construction on the property; provided further that the applicant may transfer ownership in the property to an affiliate or in a manner consistent with prior representations to the County Housing Agency; (D) the applicant shall provide improvements to the project's Queen Kaahumanu Highway-Nani Kailua Drive intersection in a manner meeting with the approval of the State

Department of Transportation and the Department of Public Works; (E) interior subdivision access roadways and the extension of Melelina, Kakalina and Kawena Streets to service the project site shall be constructed in a manner meeting with the approval of the Department of Public Works. The extensions of Kakalina and Kawena Streets shall be extended as through streets to the northern boundary of the subject property and shall be constructed to County-dedicable standards which include curb, gutter, and sidewalk improvements, in conjunction with Final Subdivision Approval and dedicated to the County thereafter. The applicant shall construct the private interior subdivision roadways with a minimum pavement width and a number of off-street parking spaces per roadway, sufficient to assure full access and turn around areas for fire protection services; (F) prior to or concurrently with its submittal of a preliminary subdivision plan to the Planning Department, the applicant shall prepare and submit to the State Department of Transportation and the Department of Public Works for their respective reviews and approvals, an access plan proposal to construct a "right out only" connection of Aloha Kona Drive with the northbound lane of Queen Kaahumanu Highway. Should such access plan proposal be approved and permitted by both agencies, the applicant shall construct the required improvements prior to Final Subdivision Approval. The entire cost for the design and construction of the access improvements shall be the responsibility of the applicant; (G) the applicant

shall construct intersection improvements along Nani Kailua Drive prior to final subdivision approval, as required by the Department of Public Works which may include but not be limited to curbing, sidewalk improvements, striping and stop signs; (H) in lieu of the actual construction of improvements as required in Conditions F and G, the applicant may enter into an agreement with the Planning Department to assure the County that the improvements will be constructed by way of a surety bond, certified check or other security acceptable to Corporation Counsel and the Planning Department; (I) To control and minimize any on-going disturbances to surrounding residences caused by construction noise, odor and dust, the applicant shall cluster the construction of all dwellings so that residential development occurs in phases; (J) to ensure that the Goals and Policies of the Recreation Element of the General Plan are implemented, the applicant shall contribute a monetary fee to the County of Hawaii to be used for park equipment in the Kailua-Kona area of North Kona in the sum of one hundred thousand dollars (\$100,000). This monetary fee shall be paid prior to final subdivision approval and shall be credited towards satisfying a portion or all of the applicant's fair share contribution to the recreational assessment; (K) drainage system improvements, including Flood Insurance Rate Map (FIRM) revisions, if required, shall be constructed in a manner meeting with the approval of the Department of Public Works, prior to Final Subdivision Approval; (L) restrictive

covenants in the deeds of all the proposed residential lots shall prohibit the construction of a second dwelling unit on each lot. A copy of the proposed covenant(s) to be recorded with the Bureau of Conveyances shall be submitted to the Planning Department for review and approval prior to final subdivision approval. A copy of the approved covenant shall be recited in an instrument executed by the applicant and the county and recorded with the Bureau of Conveyances likewise prior to final subdivision approval; (M) 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; (N) all other applicable laws, rules, regulations and requirements shall be complied with, including those of the Departments of Health and Public Works; (O) 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; (P) 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 and the Planning Director acknowledges that further reports are not required; and, (Q) 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 (ie. a condition to be performed within one year may be extended for up to one addition 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 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

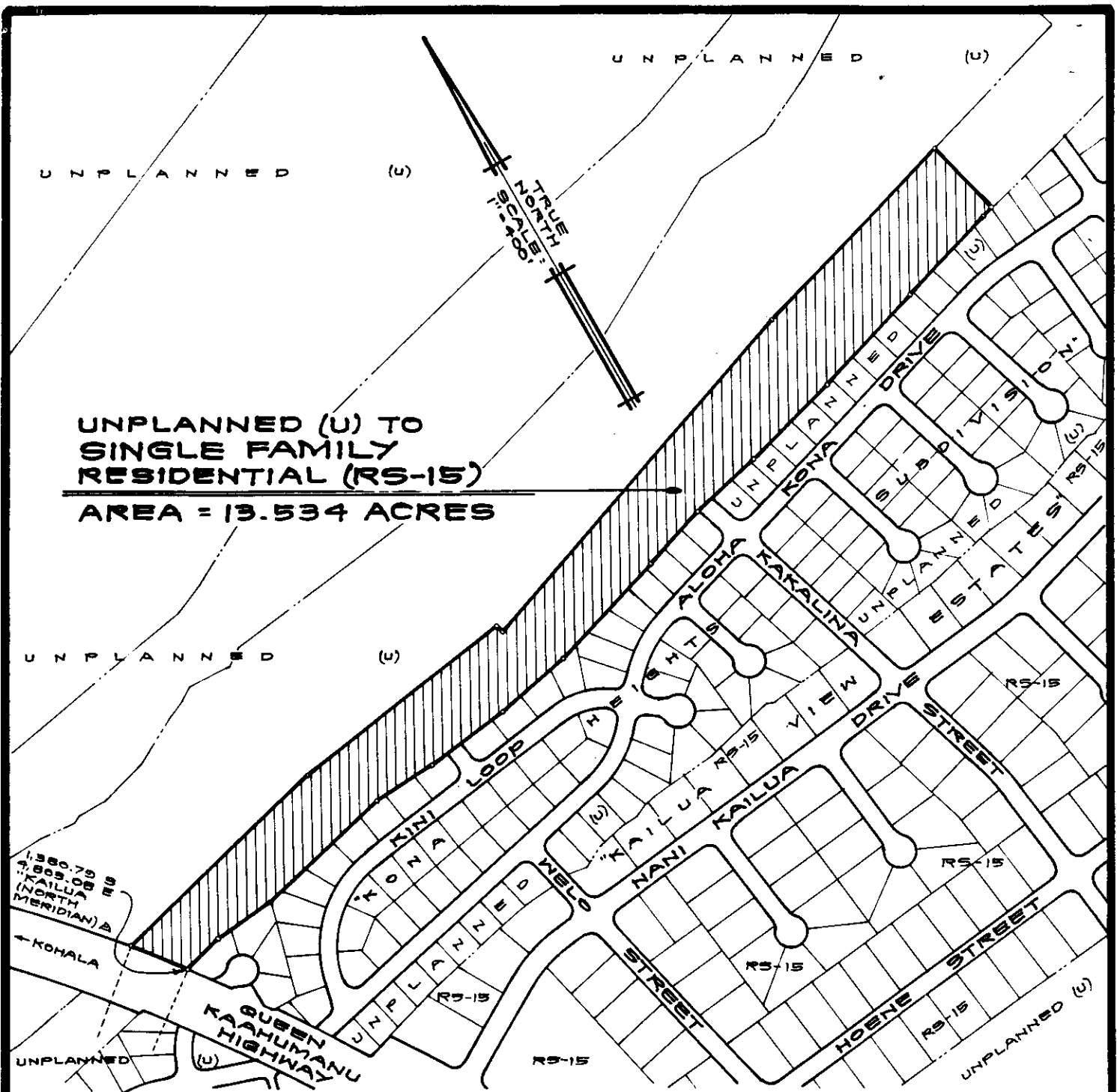
Hilo, Hawaii

Date of Introduction: September 22, 1993
Date of 1st Reading: September 22, 1993
Date of 2nd Reading: November 17, 1993
Effective Date: November 29, 1993

APPROVED AS TO FORM AND LEGALITY:


CORPORATION COUNSEL

DATED: NOV. 19 1993



UNPLANNED (U) TO
 SINGLE FAMILY
 RESIDENTIAL (RS-15)
 AREA = 13.534 ACRES

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 UNPLANNED (U) TO SINGLE FAMILY RESIDENTIAL (RS-15) AT HIENALOLI 4TH, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
 COUNTY OF HAWAII

TMK : 7-5-10 : POR. 62

OCT. 17, 1992

EXHIBIT "A"

(MARYL DEVELOPMENT, INC.)