

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 136
(Draft 2)

ORDINANCE NO. 93 131

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-7.5) AT MAKAULA, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-3-03:7 AND 17.

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 Makaula, North Kona, Hawaii, shall be Single Family Residential (RS-7.5):

Beginning at the Northeasterly corner of this parcel of land, being also the Northwesterly corner of Lot 7-A-1 of Makaula Subdivision, Unit I and being a point of the Southerly boundary of Land Patent 8265, Mahele Award 13-B to Paalua (Certificate of Boundaries No. 191), the coordinates of said point of beginning referred to Government Survey Triangulation Station "AKAHIPUU" being 7,072.80 feet South and 3,439.74 feet West and running by azimuths measured clockwise from True South:

1. 1° 59' 40" 347.99 feet along Lots 7-A-1, 8-A-1, 9 and 11 of Makaula Subdivision, Unit I and along a portion of the Westerly end of the 40-Ft. Wide Road and along the remainder of Grant 3741 to W.H. Kailiino to a point;

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To <i>Edwin</i>	From <i>Arlene</i>
Co.	Co. <i>Clerk's</i>
Dept.	Phone # <i>961-8255</i>
Fax # <i>935-4725</i>	Fax # <i>969-3291</i>

2. 91° 48' 197.92 feet along the Northerly side of Homestead Road (15-Ft. Wide) to a point;
3. 91° 57' 2,794.83 feet along the Northerly side of Homestead Road (15-Ft. Wide) to a point;
4. 205° 25' 399.55 feet along Government Land (State of Hawaii, Owner) to a point;
5. 272° 18' 50" 2,833.97 feet along Land Patent 8265, Mahele Award 13-B to Paalua (Certificate of Boundaries No. 191) to the point of beginning and containing an area of 23.926 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 Guidelines Policy" within two (2) years from the date of adoption of this Change of Zone ordinance, provided that a maximum one-year extension may be granted by the Planning Director with reasonable and sufficient justification. The effective date of the Change of Zone shall be upon the formal issuance of all necessary water commitments for the proposed development by the Department of Water Supply; (C) final

Subdivision Approval for the proposed development shall be secured within five (5) years from the effective date of the Change of Zone ordinance; (D) the project site's access intersection with the Mamalahoa Highway shall be constructed and fully channelized in a manner meeting with the approval of the State Department of Transportation, prior to the final inspection and occupancy of the first house(s) within the proposed development. Mitigation measures to improve the operation of Mamalahoa Highway north and south of the project access shall be submitted to the State Department of Transportation in conjunction with the submittal of plans for Tentative Subdivision Approval review and/or with the issuance of a Planned Unit Development (PUD) should such a permit be submitted and approved or whichever occurs first; (E) access to the subject property from the Mamalahoa Highway intersection shall meet with the approval of the Department Public Works prior to the issuance of Tentative Subdivision Approval for the proposed development; (F) all interior subdivision roadways shall be constructed in a manner meeting with the approval of the Department of Public Works prior to the issuance of Final Subdivision Approval for the proposed development. The applicant, as may be required by the Department of Public Works, shall provide dedicated roadway stubouts within the proposed subdivision which would eventually provide access to adjoining properties located to the north, south and west of the project site; (G) prior to the final inspection and

occupancy of the first house(s) within the subdivision, the applicant shall bond and/or construct that portion of the Kauwila Street extension fronting the subject property which runs from the north and south boundaries of the subject property on lands owned by the State of Hawaii, and shall be constructed to county-dedicable standards with a sixty (60) foot right-of-way meeting with the approval of the Department of Public Works; (H) drainage improvements shall be provided in a manner meeting with the approval of the Department of Public Works; (I) the applicant shall provide all on- and off-site water system improvements as may be required by, and constructed in a manner meeting with the approval of the Department of Water Supply; (J) in lieu of the actual construction of improvements as required in Conditions D, E, F, G, H and I, the applicant may enter into an agreement with the Planning Department to assure the County that the infrastructural improvements will be constructed by way of a development agreement, surety bond, certified check or other security acceptable to Corporation Counsel and the Planning Department. Upon final execution of such agreement and/or filing of the security with the County, Final Subdivision Approval for the proposed development shall be granted prior to the actual construction of required infrastructural improvements; (K) the applicant shall install a wastewater treatment system meeting with the requirements of the Department of Health; (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 implement the housing plan for the development approved by Resolution No. 505 92 and the December 3, 1992 Agreement between the County of Hawaii and White Hat Development Corporation, which shall be consistent with the housing policy of the Hawaii County Housing Agency. 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; (M) to ensure that the Goals and Policies of the Recreation Element of the General Plan are implemented, the applicant shall construct three recreational areas totaling a minimum of 3.5 acres for active and passive recreational uses within the subject property which shall be dedicated and accepted by the County of Hawaii upon its request. The configuration and improvements of the park, including and not limited to grading, grassing, irrigation, fencing, one basketball court, a combination volleyball/biddy basketball court, a mini soccer field, and a "tot lot", shall meet with the approval of the Planning Department in consultation with the Department of Parks and Recreation, prior to final

subdivision approval. A park maintenance and operational plan shall be submitted for review and approval by the Planning Department in consultation with the Department of Parks and Recreation in conjunction with final subdivision approval. Until such time that the park is dedicated to and accepted by the County, there shall be adequate assurance, as determined by the Corporation Counsel, for the maintenance of the private park by recorded covenant running with the land which shall include the following: 1) obligate the subdividers, purchasers, occupants, or association in the subdivision to maintain the park in perpetuity; and 2) empower the County, through the Department of Parks and Recreation, to enforce covenants to maintain the park, authorizing the performance of maintenance work by the County in the event of failure by the subdividers, purchasers, occupants, or association in the subdivision to perform such work and permit the subjecting of land and properties in the subdivision to a lien until the cost of the work performed by the County has been reimbursed. The parks and its improvements shall be completed prior to the final inspection and occupancy of the first house(s) within the proposed development; (N) the applicant shall work with the State Department of Education and the Planning Department to provide its pro rata share for school facilities. The pro rata share determination and its implementation shall be approved by the Planning Department, in consultation with the Department of Education, in conjunction with Final Subdivision Approval of

the proposed development; (O) that a Solid Waste Management Plan meeting with the approval of the Department of Public Works shall be submitted prior to final subdivision approval of the proposed development; (P) should any unidentified sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or wall be encountered, work in the affected area shall cease and the Planning Department immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken; (Q) as represented by the applicant, restrictive covenants in the deeds of all the proposed 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; (R) Comply with the conditions of the State Land Use Commission's Decision and Order dated January 7, 1993; (S) comply with all applicable laws, rules, regulations and requirements of the affected agencies; (T) an annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of this ordinance. The report shall include,

but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. 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; (U) 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; (V) an initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances: a) 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; b) granting of the time extension would not be contrary to the general plan or zoning code; c) granting of the time extension would not be contrary to the original reasons for the granting of the change of zone; d) 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 e) 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. 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; and, (W) the applicant shall complete the proposed project in substantial compliance with the representations made before the County Council.

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: December 1, 1993
Date of 1st Reading: December 1, 1993
Date of 2nd Reading: December 22, 1993
Effective Date: December 29, 1993

APPROVED AS TO FORM AND LEGALITY:


CORPORATION COUNSEL

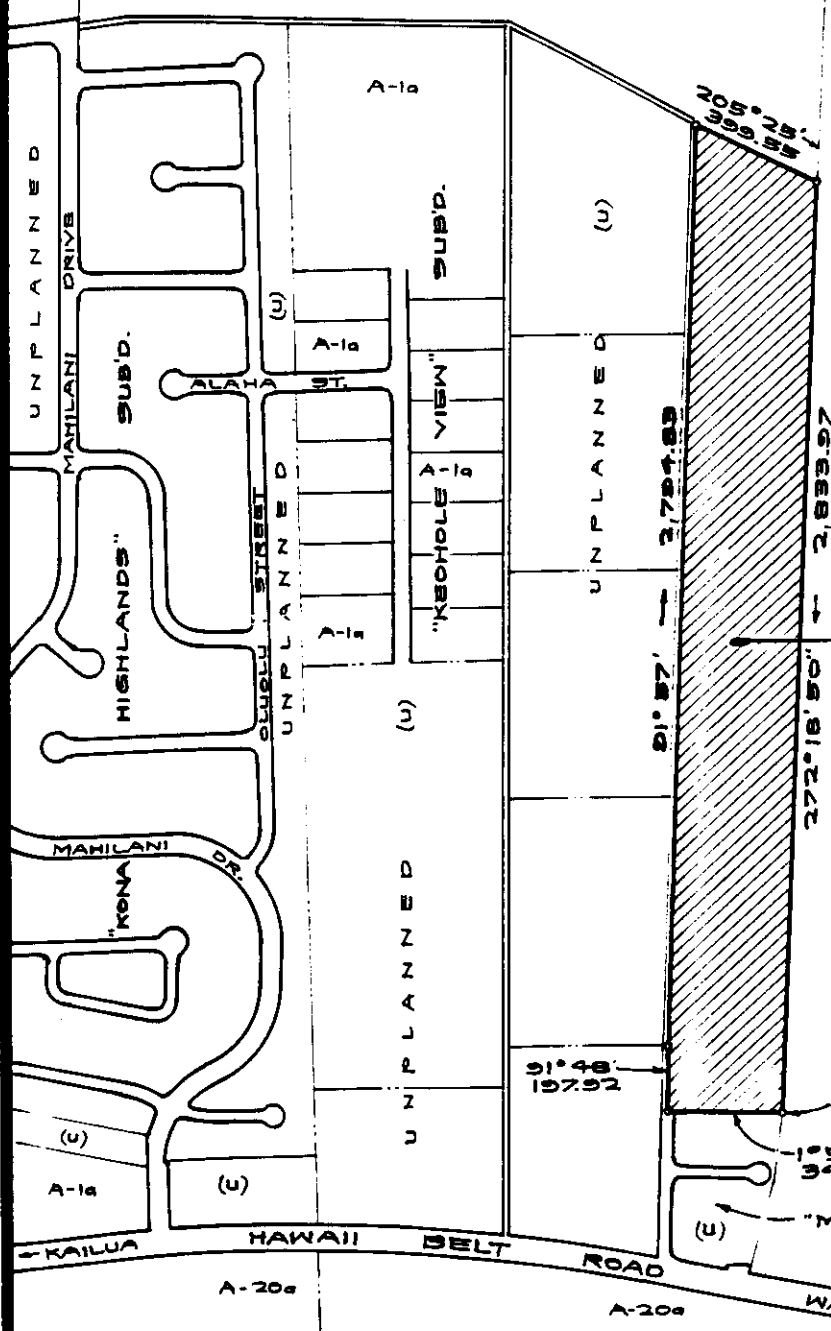
DATE: 12-27-93

DEPUTY

UNPLANNED (U)

(U)

TRUE NORTH
SCALE: 1" = 600'



UNPLANNED (U) TO
 SINGLE FAMILY
 RESIDENTIAL (RS-7.5)
 AREA = 23.926 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-7.5) AT MAKAULA, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
 COUNTY OF HAWAII

TMK : 7-3-03 : 7 AND 17

JUNE 10, 1993

(WHITE HAT DEVELOPMENT CORP)