

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 239
(Draft 4)

ORDINANCE NO. 94 63

AN ORDINANCE AMENDING SECTION 25-96 (HAMAKUA DISTRICT ZONE MAP) AND SECTION 25-98 (HAINA-HONOKAA-KUKUIHAELE ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL (RS-15) TO RESORT-HOTEL (V-43) AND FROM AGRICULTURAL (A-40a) TO SINGLE FAMILY RESIDENTIAL (RS-7.5) AND (RS-15), RESORT-HOTEL (V-18) AND (V-43) AND AGRICULTURAL (A-1a) AT WAIKOEKOE AND KANAHONUA, HAMAKUA, HAWAII, COVERED BY TAX MAP KEY 4-8-06:13, 43 AND PORTIONS OF 9, 11 AND 44.

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

SECTION 1. Section 25-96, 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 Kanahonua, Hamakua, Hawaii, shall be

Resort-Hotel (V-18):

LOT 1:

Beginning at the Southeasterly corner of this parcel of land along the Westerly side of L.C. Award 8559-B, Apana 2 to William C. Lunalilo, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU MAJU NORTH" being 8,523.84 feet North and 1,440.08 feet East, thence running by azimuths measured clockwise from True South:

1. 90° 30' 00" 1,167.96 feet along the remainder of L.C. Award 11216, Apana 50 to Kekauonohi to the top of the pali;

2. Along the top of the pali the direct azimuth and distance being:
220° 03' 00" 259.91 feet;
3. Along the top of the pali the direct azimuth and distance being:
217° 20' 00" 442.46 feet;
4. Along the top of the pali the direct azimuth and distance being:
231° 21' 00" 364.12 feet;
5. 279° 58' 00" 62.77 feet along the remainder of L.C. Award 11216, Apana 50;
6. 269° 57' 00" 185.06 feet along the same;
7. 247° 03' 00" 191.95 feet along the same;
8. 236° 36' 00" 38.29 feet along the same to the Westerly side of L.C. Award 8559-B, Apana 2;
9. 0° 30' 00" 873.63 feet along the Westerly side of L.C. Award 8559-B, Apana 2 to the point of beginning and containing an area of 15.000 acres. (Refer to Lot 1 as shown on Exhibit "A".)

The district classification of the following area situated at Waikoekoe, Hamakua, Hawaii, shall be

Resort-Hotel (V-43):

LOT 2a:

Beginning at the Northwesterly corner of this parcel of land being the Northeasterly corner of Lot A along the Southerly side of the Old Government Main Road to Waipio, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU MAUU NORTH" being 7,272.24 feet North and 1,429.16 feet East, thence running by azimuths measured clockwise from True South:

1. 264° 40' 00" 121.66 feet along the Southerly side of the Old government Road to Waipio;
2. 278° 03' 00" 117.88 feet along the same to the middle of the stream;
3. Along the middle of the stream in all its windings the direct azimuth and distance being:
12° 11' 00" 400.00 feet;
4. Along the middle of the stream in all its windings the direct azimuth and distance being:
1° 16' 00" 283.67 feet;
5. Along the middle of the stream in all its windings the direct azimuth and distance being:
331° 25' 00" 179.78 feet
to the Northerly side of Honokaa-Waipio Road;
6. 88° 34' 30" 66.45 feet along the Northerly side of Honokaa-Waipio Road;
7. 358° 34' 30" 20.00 feet along the Northerly side of Honokaa-Waipio Road;
8. 88° 34' 30" 105.00 feet along the Northerly side of Honokaa-Waipio Road;
9. 88° 34' 30" 45.00 feet along the Northerly side of Honokaa-Waipio Road;
10. 88° 34' 30" 15.00 feet along the Northerly side of Honokaa-Waipio Road;
11. 88° 34' 30" 45.00 feet along the Northerly side of Honokaa-Waipio Road;
12. 88° 34' 30" 147.12 feet along the Northerly side of Honokaa-Waipio Road to the Easterly side of L.C. Award 11219, Apana 50 to Kekauonohi;

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| 13. | 197° 30' 00" | 230.76 | feet along the Easterly side of L.C. Award 11216, Apana 50 and Lot A; |
| 14. | 193° 00' 00" | 530.00 | feet along the Easterly side of Lot A; |
| 15. | 180° 30' 00" | 131.70 | feet along the same to the point of beginning and containing an area of 236,067 square feet. (Refer to Lot 2a as shown on Exhibit "A".) |

The district classification of the following area situated at Waikoekoe, Hamakua, Hawaii, shall be

Resort-Hotel (V-43):

LOT 2b:

Beginning at the Northwesterly corner of this parcel of land being the Northeasterly corner of Parcel 2a along the Southerly side of the Old Government Main Road to Waipio in the middle of the stream, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU MAUU NORTH" being 7,267.04 feet North and 1,667.02 feet East, thence running by azimuths measured clockwise from True South:

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| 1. | 278° 03' 00" | 130.13 | feet along the Southerly side of the Old Government Road to Waipio; |
| 2. | 292° 48' 00" | 66.28 | feet along the same to the Westerly side of L.C. Award 7877, Apana 2 to Kaheenalau; |
| 3. | 5° 00' 00" | 778.36 | feet along the Westerly side of L.C. Award 7877, Apana 2 to Kaheenalau and the remainder of L.C. Award 8559-B, Apana 2 to William C. Lunalilo to the Northerly side of the Honokaa-Waipio Road; |

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| 4. | 88° 34' 30" | 23.52 feet along the Northerly side of Honokaa-Waipio Road; |
| 5. | 358° 34' 30" | 40.00 feet along the Northerly side of Honokaa-Waipio Road; |
| 6. | 88° 34' 30" | 35.00 feet along the Northerly side of Honokaa-Waipio Road; |
| 7. | 88° 34' 30" | 35.00 feet along the Northerly side of Honokaa-Waipio Road; |
| 8. | 178° 34' 30" | 30.00 feet along the Northerly side of Honokaa-Waipio Road; |
| 9. | 88° 34' 30" | 33.55 feet along the Northerly side of Honokaa-Waipio Road to the middle of the stream; |
| 10. | Along the middle of the stream in all its windings the direct azimuth and distance being: | |
| | 151° 25' 00" 179.78 feet; | |
| 11. | Along the middle of the stream in all its windings the direct azimuth and distance being: | |
| | 181° 16' 00" 283.67 feet; | |
| 12. | Along the middle of the stream in all its windings the direct azimuth and distance being: | |
| | 192° 11' 00" 400.00 | |
| | feet to the point of beginning and containing an area of 162,883 square feet. (Refer to Lot 2b as shown on Exhibit "A".) | |

The district classification of the following area situated at Kanahonua, Hamakua, Hawaii, shall be Resort-Hotel (V-43):

LOT 4:

Beginning at the Southeasterly corner of this parcel of land along the Northerly side of the Honokaa-Waipio Road being along the Westerly side of Land Commission Award 8559-B, Apana 2 to William C. Lunalilo, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU MAUU NORTH" being 6,404.05 feet North and 1,239.40 feet East, thence running by azimuths measured clockwise from True South:

1. 88° 34' 30" 142.89 feet along the Northerly side of Honokaa-Waipio Road;
2. 178° 34' 30" 10.00 feet along the Northerly side of Honokaa-Waipio Road;
3. 88° 34' 30" 450.00 feet along the Northerly side of Honokaa-Waipio Road;
4. 358° 34' 30" 10.00 feet along the Northerly side of Honokaa-Waipio Road;
5. 88° 34' 30" 15.00 feet along the Northerly side of Honokaa-Waipio Road;
6. 88° 34' 30" 60.00 feet along the Northerly side of Honokaa-Waipio Road;
7. 88° 34' 30" 175.00 feet along the Northerly side of Honokaa-Waipio Road;
8. 178° 34' 30" 10.00 feet along the Northerly side of Honokaa-Waipio Road;

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| 9. | 88° 34' 30" | 32.82 | feet along the Northerly side of Honokaa-Waipio Road; |
| 10. | 191° 23' 00" | 211.57 | feet along the remainder of L.C. Award 11216, Apana 50 to the Westerly corner of Lot A; |
| 11. | 274° 43' 30" | 875.84 | feet along the Southerly side of Lot A to its Southeasterly corner along the Westerly of L.C. Award 8559-B, Apana 2 to William C. Lunalilo; |
| 12. | 17° 30' 00" | 129.48 | feet along the Westerly side of L.C. Award 8559-B, Apana 2 to William C. Lunalilo to the point of beginning and containing an area of 3.338 acres. (Refer to Lot 4 as shown on Exhibit "A".) |

The district classification of the following area situated at Kanahonua, Hamakua, Hawaii, shall be Agricultural (A-1a):

LOT 5:

Beginning at the Southwesterly corner of this parcel of land along the Northerly side of Honokaa-Waipio Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU MAUU NORTH" being 6,359.76 feet North and 541.14 feet West, thence running by azimuths measure clockwise from True South:

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| 1. | 182° 30' 00" | 160.00 | feet along the Easterly side of the Honokaa-Waipio Road; |
| 2. | 92° 30' 00" | 13.61 | feet along the Northerly side of the Honokaa-Waipio Road; |

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| 3. | 187° | 05' | 00" | 7.94 | feet along the Easterly side of Mud Land to the Westerly corner of Executive Order 676; |
| 4. | 277° | 05' | 00" | 268.06 | feet along the Southerly side of Executive Order 676; |
| 5. | 187° | 05' | 00" | 325.00 | feet along the Easterly side of Executive Order 676; |
| 6. | 97° | 05' | 00" | 268.06 | feet along the Northerly side of Executive Order 676 to the Easterly side of Mud Lane; |
| 7. | 189° | 35' | 00" | 333.43 | feet along the Easterly side of Mud Lane to the Southerly side of the Old Government Road to Waipio; |
| 8. | 258° | 51' | 30" | 547.80 | feet along the Southerly side of the Old Government Main Road to Waipio to the Northwesterly corner of the West Hamakua Church lot; |
| 9. | 3° | 30' | 00" | 142.28 | feet along the Westerly side of the West Hamakua Church lot; |
| 10. | 273° | 30' | 00" | 210.73 | feet along the Southerly side of the West Hamakua Church lot to the Southwesterly corner of Lot B; |
| 11. | 7° | 05' | 00" | 50.05 | feet along the remainder of L.C. Award 11216, Apana 50; |
| 12. | 279° | 40' | 00" | 216.31 | feet along the remainder of L.C. Award 11216, Apana 50 to the Westerly side of Lot A; |

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| 13. | 11° 23' 00" | 665.18 feet along the Westerly side of Lot A and remainder of L.C. Award 11216, Apana 50 to the Northerly side of Honokaa-Waipio Road; |
| 14. | 88° 34' 30" | 167.18 feet along the Northerly side of Honokaa-Waipio Road; |
| 15. | 358° 34' 30" | 10.00 feet along the Northerly side of Honokaa-Waipio Road; |
| 16. | 88° 34' 30" | 65.00 feet along the Northerly side of Honokaa-Waipio Road; |
| 17. | 88° 34' 30" | 60.00 feet along the Northerly side of Honokaa-Waipio Road; |
| 18. | 88° 34' 30" | 40.00 feet along the Northerly side of Honokaa-Waipio Road; |
| 19. | 88° 34' 30" | 60.00 feet along the Northerly side of Honokaa-Waipio Road; |
| 20. | 88° 34' 30" | 513.20 feet along the Northerly side of Honokaa-Waipio Road to the point of beginning and containing an area of 15.431 Acres. (Refer to Lot 5 as shown on Exhibit "A".) |

The district classification of the following area situated at Kanahonua, Hamakua, Hawaii, shall be

Agricultural (A-1a):

LOT 6:

Beginning at the Southeasterly corner of this parcel of land being the Southwesterly corner of Lot 1 of the subdivision by Hawaii Housing Authority along the

Northerly side of the Old Government Main Road to Waipio, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU MAUU NORTH" being 7,259.59 feet North and 250.94 feet West, thence running by azimuths measured clockwise from True South:

1. 78° 51' 30" 217.70 feet along the Northerly side of the Old Government Road to Waipio to the Easterly side of L.C. Award 4111 to N. Keau;
2. 191° 55' 00" 261.91 feet along the Easterly side of L.C. Award 4111;
3. 101° 32' 30" 132.07 feet along the Northerly side of L.C. Award 4111 to the easterly side of Grant 3354;
4. 175° 05' 00" 364.30 feet along the Easterly side of Grant 3354 to the Southerly corner of Grant 932, Apana 2;
5. 193° 00' 00" 275.47 feet along the Easterly side of the Grant 932, Apana 2 to the top of the pali;
6. Along the top of the pali the direct azimuth and distance being:
230° 25' 00" 283.80 feet;
7. Along the top of the pali the direct azimuth and distance being:
254° 07' 00" 237.99 feet
to the Northerly corner of Lot 1 along the Westerly side of L.C. Award 7131 to Kaai;
8. 354° 30' 28" 348.35 feet along the Westerly side of Lot 1 along the Westerly side of L.C. Award 7131;

9. 270° 00' 00" 244.26 feet along the Southerly side of Lot 1 along the remainder of L.C. Award 7131;
10. 175° 00' 00" 439.18 feet along the Easterly side of Lot 1 along the remainder of L.C. Award 7131 to the top of the pali;
11. Along the top to the pali the direct azimuth and distance being:
238° 00' 30" 109.26 feet
to the Westerly corner of Parcel 1;
12. 270° 30' 00" 1,167.96 feet along the Southerly side of Parcel 1 along the remainder of L.C. Award 11216, Apana 50 to the Westerly side of L.C. Award 8559-B, Apana 2;
13. 0° 30' 00" 585.72 feet along the Westerly side of L.C. Award 8559-B, Apana 2 to the Northeasterly corner of the Catholic Church Cemetery;
14. 85° 00' 00" 190.50 feet along the Northerly side of the Catholic Church Cemetery;
15. 4° 00' 00" 267.36 feet along the Westerly side of the Catholic Church Cemetery;
16. 90° 41' 00" 933.15 feet along the Northerly side of the State Park and Lot 5 and the remainder of Land Commission Award 11216, Apana 50;
17. 6° 59' 00" 109.84 feet along the remainder of L.C. Award 11216, Apana 50;

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| 18. | 95° 35' 00" | 181.69 feet along the remainder of L.C. Award 11216, Apana 50; |
| 19. | 76° 19' 30" | 392.46 feet along the remainder of L.C. Award 11216, Apana 50; |
| 20. | 352° 02' 00" | 224.40 feet along the remainder of L.C. Award 11216, Apana 50 to the point of beginning and containing an area of 36.338 acres. (Refer to Lot 6 as shown on Exhibit "A".) |

The district classification of the following area situated at Kanahonua, Hamakua, Hawaii, shall be Single Family Residential (RS-15):

LOT 7:

Beginning at the Southwesterly corner of this parcel of land being the Northwesterly corner of Lot 1 of the subdivision by the Hawaii Housing Authority, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU MAUU NORTH" being 7,432.06 feet North and 275.08 feet West, thence running by azimuths measured clockwise from True South:

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| 1. | 172° 02' 00" | 50.25 feet along the remainder of Land Commission Award 11216, Apana 50; |
| 2. | 256° 19' 30" | 392.46 feet along the same; |
| 3. | 275° 35' 00" | 181.69 feet along the same; |
| 4. | 186° 59' 00" | 109.84 feet along the same; |
| 5. | 270° 41' 00" | 50.30 feet along the same to the Northwesterly corner of Lot 5; |
| 6. | 6° 59' 00" | 164.15 feet along the Westerly side of Lot 5 to the Northerly side of Lot 4; |

7. 95° 35' 00" 222.00 feet along the Northerly side of Lots 1, 2 and 4 to the Northeasterly corner of Lot 6;
8. 76° 19' 30" 388.97 feet along the Northerly side of Lots 1 through 6 to the point of beginning and containing an area of 36,478 square feet. (Refer to Lot 7 as shown on Exhibit "A".)

The district classification of the following area situated at Kanahonua, Hamakua, Hawaii, shall be Single Family Residential (RS-15):

LOT 8:

Beginning at the Northwesterly corner of this parcel of land being the Southwesterly corner of Lot B being also the Southeasterly corner of the West Hamakua Church lot, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU MAUU NORTH" being 7,130.36 feet North and 287.93 feet West, thence running by azimuths measured clockwise from True South:

1. 279° 40' 00" 220.06 feet along the Southerly side of Lot B to the Westerly side of Lot A;
2. 11° 23' 00" 50.02 feet along the Westerly side of Lot A;
3. 99° 40' 00" 216.31 feet along the remainder of L.C. Award 11216, Apana 50;
4. 187° 05' 00" 50.05 feet along the same to the point of beginning and containing an area of 10,909 square feet. (Refer to Lot 8 as shown on Exhibit "A".)

The district classification of the following area situated at Waikoekoe, Hamakua, Hawaii, shall be Single Family Residential (RS-7.5):

LOT 9:

Beginning at the Northerly corner of this parcel of land along the Southerly side of the Old Government Road to Waipio, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU MAUU NORTH" being 7,023.90 feet North and 2,330.88 feet East, thence running by azimuths measured clockwise from True South:

1. 292° 48' 00" 31.56 feet along the Southerly side of the Old Government Road to Waipio;
2. 293° 45' 00" 67.33 feet along the same to the Northerly corner of Lot 16, Tiger Camp Subdivision;
3. 23° 23' 00" 125.20 feet along the Westerly side of Lot 16;
4. 293° 45' 00" 65.00 feet along the Southerly side of Lot 16;
5. 296° 16' 00" 513.00 feet along the Southerly side of Lots 8 through 16;
6. 293° 23' 00" 360.00 feet along the Southerly side of Lots 2 through 7;
7. 23° 23' 00" 37.55 feet along the Westerly side of Lot 1-A to the Northerly side of Honokaa-Waipio Road;
8. Along the Northerly side of Honokaa-Waipio Road on a curve to the left with a radius of 2,638.77 feet, the cord azimuth and distance being:
 90° 07' 58" 143.47 feet;

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| 9. | 88° 34' 30" | 156.13 feet along the Northerly side of Honokaa-Waipio Road; |
| 10. | 111° 46' 00" | 224.38 feet along the remainder of L.C. Aw. 8559-B, Apana 2 to William C. Lunalilo; |
| 11. | 122° 15' 00" | 123.32 feet along the same; |
| 12. | 131° 38' 00" | 266.06 feet along the same; |
| 13. | 126° 18' 00" | 66.68 feet along the same; |
| 14. | 172° 30' 00" | 94.93 feet along the same; |
| 15. | 180° 30' 00" | 129.00 feet along the same to the point of beginning and containing an area of 131,523 square feet. (Refer to Lot 9 as shown on Exhibit "A".) |

SECTION 2. Section 25-98, 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 Kanahonua, Hamakua, Hawaii, shall be

Resort-Hotel (V-43):

LOT 3:

Beginning at the Northwesterly corner of this parcel of land being the Northeasterly corner of Lot B along the Southerly side of the Old Government Main Road to Waipio, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU MAUU NORTH" being 7,256.65 feet North and 538.48 feet East, thence running by azimuths measured clockwise from True South:

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| 1. | 269° 56' 00" | 732.83 feet along the Southerly side of the Old Government Road to Waipio; |
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2. 264° 40' 00" 158.54 feet along the same to the Westerly side of L.C. Award 8559-B, Apana 2 to William C. Lunalilo;
3. 0° 30' 00" 131.70 feet along the Westerly side of L.C. Award 8559-B, Apana 2 to William C. Lunalilo;
4. 13° 00' 00" 530.00 feet along the same;
5. 17° 30' 00" 101.28 feet along the same;
6. 94° 43' 30" 875.84 feet along the remainder of L.C. Award 11216, Apana 50;
7. 191° 23' 00" 503.63 feet along the same to the Southeasterly corner of Lot B;
8. 191° 38' 00" 166.66 feet along the Easterly side of Lot B to the point of beginning and containing an area of 14.427 acres. (Refer to Lot 3 as shown on Exhibit "A".)

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

SECTION 3. 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) No more than thirty-eight (38) one-acre lots shall be developed on the A-1a zoned area and no more than twenty-one (21) units shall be developed on the V-43 zoned area;
- (C) To ensure that the rural lifestyle of the Kukuihaele community is maintained, restrictive covenants in the deeds of all the proposed agricultural lots within the project

area shall inform owners that possible odor, noise, and other impacts may result from existing activities on surrounding or nearby lands;

- (D) On-site water system improvements, meeting with the requirements of the Department of Water Supply shall be installed prior to final subdivision approval. Off-site water improvements shall be completed within eighteen (18) months of the effective date of this ordinance. An agreement shall be entered into between the applicant and the County, through its Departments of Water Supply and Planning within three months from the effective date of this ordinance;
- (E) The agricultural and residential-resort lots subdivision, the consolidation and resubdivision of the adjoining residential lots, the resort and improvements to the Plantation Inn located within the V-43 zoned area, shall be constructed within five years from the effective date of this change of zone ordinance;
- (F) The Amanhideaway located within the V-18 zoned area, shall be constructed in such a way that it is not visible from the Waipio Valley Beach and from the existing Waipio Valley Lookout Parking Lot. Landscaping shall be provided for the Amanhideaway, the Plantation Inn and the residential resort units to maximize visual intrusion from any public road and from adjacent properties;
- (G) Safety improvements (i.e., signage, softening of the curves, and pedestrian paths) to the existing Kukuihaele Road (Old Highway 240) through the village shall be constructed. Plans for the improvements shall be submitted for the approval of the Department of Public Works. Construction of the improvements shall be completed prior

to issuance of any certificate of occupancy or final subdivision approval whichever comes first;

- (H) Plans for the renovation of the plantation manager's house shall be submitted to the Department of Land and Natural Resources, Historic Preservation Division, for review and approval in accordance with Section 6E-10, Hawaii Revised Statutes, prior to commencement of any construction, alteration or other improvement to the plantation manager's house;

- (I) A detailed historic sites mitigation plan for the treatment of all significant historic sites in the project area, except for the plantation manager's house shall be submitted to the State Historic Preservation Division for review and approval. The plan shall consist of two sub plans:
 - (1) an archaeological data recovery plan (scope of work) for the sites to undergo data recovery and

 - (2) a detailed preservation plan for the sites to undergo preservation, to include buffer zones, interim preservation measures, and long range preservation concerns.

Verification of the approval of the plan by the State Historic Preservation Division shall be submitted with the plans for subdivision or grading permit. No land alteration may occur within any area identified as containing an archaeological site until the terms and conditions of the preservation plan have been met;

- (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) To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicant, successors, or assigns shall:
- (1) work with the Office of Housing and Community Development 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 subsequently adopted policies. If the Office of Housing and Community Development determines that affordable housing units are required for the development, any housing plan developed pursuant to this condition shall be approved by the County Housing Agency prior to the issuance of Final Subdivision or Plan Approval of any portion of the subject properties.
 - (2) The applicant, successors or assigns shall construct ten (10) units of employee housing within the project area as part of the housing plan for the development. The employee housing shall be constructed within five years from the effective date of this change of zone ordinance;

- (L) Restrictive covenants in the deeds of all the proposed agricultural lots shall prohibit the construction of an ohana dwelling or 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) It shall be demonstrated to the satisfaction of the Planning Director that agricultural use on the agricultural zoned lots pursuant to the requirements of Chapter 205, Hawaii Revised Statutes relating to agricultural lands has been met and the deeds of each agricultural zoned lot stating such requirements shall be duly recorded with the State Bureau of Conveyances and a copy of the recorded deeds shall be filed with the Planning Department within one year from the date of Final Subdivision Approval. Documentation or demonstration of compliance shall be submitted to the Planning Department concurrently with the plans for a building permit for each lot;
- (N) A comprehensive drainage study shall be conducted to determine the type of drainage improvements that would be required given the topography of the area, the existing drainage system, and the amount of water generated by all portions of the proposed development. The study shall be reviewed and approved by the Department of Public Works. Drainage improvements shall be constructed meeting with the requirements of the Department of Public Works prior to the issuance of final subdivision approval of the subject properties;

- (O) A solid waste management plan shall be prepared meeting with the approval of the Department of Public Works prior to final subdivision approval. The Plan shall include, but not be limited to, the management of construction solid waste as well as operating and domestic solid waste generated by the subject properties, and provisions for the construction of a proposed solid waste transfer station to be approved by the Department of Public Works. Approved recommendations and mitigation measures shall be implemented at a time and in a manner meeting with the approval of the Department of Public Works. In lieu of providing a solid waste transfer station, the applicant may contribute a monetary fee for its proportionate share of its solid waste assessment;
- (P) to ensure that the Goals and Policies of the Recreation Element of the General Plan are implemented, the applicant shall:
- (1) provide in perpetuity for approximately 11.5 acres of land, TMK: 4-8-06:3 and Portion 44, which includes the social hall site, the field adjacent to it and lands extending behind Tiger Camp which shall be dedicated to the County of Hawaii upon its request. Until such time that the land is dedicated to and accepted by the County, there shall be adequate assurance, as determined by the Planning Director and the Corporation Counsel, by a recorded covenant running with the land, to obligate the applicant to maintain and accept all liability for the said lands in perpetuity;
 - (2) construct improvements having the cash value of one hundred seventy-five thousand dollars (\$175,000) and an additional cash value of two hundred thousand

dollars (\$200,000) in lieu of affordable housing funds as determined by the County Housing Agency prior to Final Subdivision Approval, to be used for the social hall facilities and park improvements in the Kukuihaele area. Detailed recreation plans for the improvements shall be developed in consultation with the Department of Parks and Recreation and the Kukuihaele community. The plan and an implementation schedule for construction of the improvements shall be submitted and approved by the Planning Department in consultation with the Department of Parks and Recreation prior to Final Subdivision Approval or Final Plan Approval for any portion of the subject properties;

- (3) improve and maintain the existing county park on the makai side of Kukuihaele Village prior to Final Subdivision Approval or Final Plan Approval, whichever occurs first. Improvements to the 3.97 acre county park, TMK: 4-8-06:10, may include fencing, lighting, resurfacing of the existing basketball court, and providing additional playground equipment. Detailed recreation plans for the improvements and park maintenance program shall be developed in consultation with the Department of Parks and Recreation and with the Kukuihaele community. The plan, an implementation schedule for construction of the improvements, and the maintenance program shall be submitted and approved by the Planning Department in consultation with the Department of Parks and Recreation prior to Final Subdivision Approval;

- (Q) A job training program for the operating phase of the hotel shall be developed and submitted to the Planning Department for review and approval within three (3) months of the

effective date of this change of zone ordinance.

Preference shall be given to the displaced workers from Hamakua Sugar and the Kukuihaele area in the job training program and employment opportunities;

- (R) Prior to the issuance of the certificate of occupancy for any portion of the subject properties, the applicant shall:
- (1) construct a new primary access to the project site (Plantation Inn, Residential-resort, Amanhideaway, and the agricultural lot subdivision), from the State Highway on the west side of Waikoekoe stream to Kukuihaele Town Road meeting with the approval of the Department of Public Works.
 - (2) construct improvements to the intersection of the State Highway and the new primary access, meeting with the approval of the Department of Transportation and construct improvements to the intersection of the Kukuihaele Town Road and the new primary access, meeting with the approval of the Department of Public Works.
 - (3) improve portions of the Kukuihaele Town Road (old Waipio-Honokaa Road) fronting the subject properties and leading to the proposed development meeting with the minimum standards and approval with the Department of Public Works for two-way movement of traffic;
 - (4) improve portions of the Mud Lane Road between the State Highway and the Kukuihaele Town Road, meeting with the approval of the Department of Public Works; and

- (5) Pave the access of the Catholic Church cemetery from the Kukuihaele Town Road to its existing right-of-way width.

An internal traffic circulation plan shall be submitted for review and approval by the Planning Director in consultation with the Department of Public Works prior to submitting plans for plan approval, subdivisions, or grading. Such circulation plan shall include provisions for access to the landlocked 2.1193 acre parcel (parcel 55) abutting the project site and public access along the portion of the Kukuihaele Landing access road within the project site;

- (S) Wastewater disposal facilities shall meet with the approval of the State Department of Health;
- (T) As represented by the applicant, a total of 4.1 acres of land, with the consent of lot owners at Tiger Camp, lot owners adjacent to the plantation manager's house, and lot owners near the former grade school playground shall be deeded to the respective lot owners within eighttteen (18) months from the effective date of this ordinance;
- (U) As represented by the applicant, a total of approximately 1.15 acres of land shall be dedicated to the Hawaii County cemeteries and the Catholic Church cemeteries delineated as fifty (50) feet wide strips of land on two sides of each of these cemeteries prior to final subdivision approval or final plan approval, whichever occurs first; and
- (V) As represented by the applicant, a lifetime residence shall be granted to Mr. Lino Reynon who resides on the property described as TMK: 4-8-06:44. Documentation shall be submitted to the Planning Director prior to final

subdivision approval or final plan approval, whichever occurs first;

- (W) The Applicant shall pay its fair share contribution to address potential regional impacts of the project with respect to park, fire, police, solid waste disposal facilities, sewer and roads. The fair share contribution shall be initially based on the representations contained within the change of zone application and may be increased or reduced proportionally if the residential-agricultural lot counts are adjusted. In lieu of paying the fair share contribution, the applicant may construct such facilities related to park, fire, police, solid waste disposal facilities, sewers and roads with the approval of the appropriate agency(ies);
- (X) The applicant shall conform to the best extent practicable with the guidelines as provided within the Strategies for Energy Efficient Architecture by Hawaiian Design and the State Model Energy Code, in the construction of dwellings within the project site;
- (Y) Comply with all applicable laws, rules, regulations and requirements, including those of the Department of Health, Fire, and the Department of Water Supply;
- (Z) 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;
- (AA) An annual progress report shall be submitted to the Planning Department prior to the anniversary date of the approval of this change of zone. The report shall address

in detail the status of the development of each area (including number of lots created, number of units constructed) 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 Department acknowledges that further reports are not required;

(BB) An extension of time for the performance of conditions set forth in this 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 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 of the respective development areas not be met or substantially complied with in a timely fashion, the Director shall initiate rezoning of the applicable area to its original or more appropriate designation.

SECTION 4. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

SECTION 5. This ordinance shall take effect upon its approval.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: May 18, 1994
Date of 1st Reading: May 18, 1994
Date of 2nd Reading: June 1, 1994
Effective Date: June 8, 1994

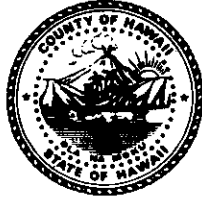
APPROVED AS TO FORM AND LEGALITY:

ASSISTANT


CORPORATION COUNSEL

DATED: 6/6/94

ROBIN J. YAHIKU
County Clerk



CONSTANCE R. KIRIU
Deputy County Clerk

BOBBY JEAN LEITHEAD-TODD
Legislative Auditor

OFFICE OF THE COUNTY CLERK

County of Hawaii
Hawaii County Building
25 Aupuni Street
Hilo, Hawaii 96720

NOTE

On Bill No. 239, Dr. 4, Ordinance No. 94-63, reference is made to map attached hereto, marked Exhibit "A".

Said Exhibit is not part of the duplicate copies of this ordinance, due to its size, but is available for viewing in the Office of the County Clerk.

If further information is needed, call 961-8255.

A handwritten signature in black ink, appearing to read "Robin J. Yahiku".

Robin J. Yahiku
COUNTY CLERK

OFFICE OF THE COUNTY CLERK
 County of Hawaii
 Hilo, Hawaii

RECEIVED

'94 JUN 8 PM 4 01

(DRAFT 2) OFFICE OF COUNTY CLERK

Introduced By: Takashi Domingo
 Date Introduced: May 18, 1994
 First Reading: May 18, 1994
 Published: N/A

COUNTY OF HAWAII ROLL CALL VOTE				
	AYES	NOES	ABS	EX
ARAKAKI	X			
BONK-ABRAMSON		X		
CHILDS	X			
DE LIMA	X			
DOMINGO	X			
HALE		X		
RATH	X			
ROSEHILL			X	
SCHUTTE	X			
	6	2	1	0

REMARKS:

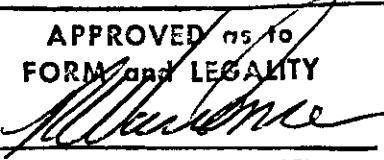
(DRAFT 4)



Second Reading: June 1, 1994
 To Mayor: June 6, 1994
 Returned: June 8, 1994
 Effective: June 8, 1994
 Published: June 16, 1994

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
ARAKAKI	X			
BONK-ABRAMSON		X		
CHILDS	X			
DE LIMA	X			
DOMINGO	X			
HALE		X		
RATH	X			
ROSEHILL			X	
SCHUTTE	X			
	6	2	1	0

REMARKS:

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council and published as indicated above.

APPROVED ¹⁷⁵ to
 FORM and LEGALITY

 CORPORATION COUNSEL
 COUNTY OF HAWAII
 Date JUN 7 1994


 COUNCIL CHAIRMAN

 COUNTY CLERK

Approved/Disapproved this 8 day
 of June, 1994


 MAYOR, COUNTY OF HAWAII

Bill No.: 239 (Draft 4)
 Reference: C-1025/PC-115
 Ord. No.: 94 63