

COUNTY OF HAWAII STATE OF HAWAII



BILL NO. 309
(Draft 2)

ORDINANCE NO. 94 121

AN ORDINANCE AMENDING SECTION 25-87 (NORTH KONA ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, RELATING TO MODIFICATIONS OF CONDITIONS OF ORDINANCE 88-115 FOR LANDS SITUATED AT KALAOA 4TH, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-3-05:86.

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 Kalaoa 4th, North Kona, Hawaii, shall be Single Family Residential (RS-10):

Beginning at the southeast corner of this parcel of land, being also the northeast corner of Lot 231, Kona Palisade, Unit I (File Plan 1061), the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 7,041.67 feet South and 12,048.68 feet West, thence running by azimuths measured clockwise from True South:

1. 95° 55' 248.72 feet along Lot 231, Lot 229 and a portion of Lot 228, Kona Palisade, Unit I (File Plan 1061);
2. 99° 04' 258.00 feet along a portion of Lot 228, Lot 227, Lot 226, Lot 225 and a portion of Lot 224, Kona Palisade, Unit I (File Plan 1061);

3. 106° 41' 30" 234.50 feet along a portion of Lot 224, Lot 223, Lot 222, and a portion of Lot 221, Kona Palisade, Unit I (File Plan 1061);
4. 105° 20' 327.00 feet along a portion of Lot 221, Lot 220, Lot 219, Lot 218, Lot 217 and a portion of Lot 216, Kona Palisade, Unit I (File Plan 1061);
5. 102° 38' 30" 165.00 feet along a portion of Lot 216, Lot 215 and a portion of Lot 214, Kona Palisade, Unit I (File Plan 1061);
6. 179° 35' 35" 190.86 feet along a portion of Grant 3750 to Kahananui;
7. 280° 03' 217.74 feet along the remainder of Grant 1607 to Nawahie (portion of Parcel B);
8. 284° 47' 30" 174.48 feet along the same;
9. 288° 44' 126.97 feet along the same;
10. 283° 06' 30" 20.28 feet along the same;
11. 265° 03' 30" 125.28 feet along the same;
12. 276° 38' 46" 627.36 feet along the same;
13. 13° 30' 265.81 feet along the remainder of Grant 1607 to Nawahie (Lot 7, 50-Foot Road) to the point of beginning and containing an area of 6.606 Acres.

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, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. Subdivision plans shall be submitted for tentative approval within one year from the effective date of the change of zone. Final Subdivision Approval shall be secured within one year from the effective date of [the change of zone] this amendment.
- C. 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.
- D. A drainage system meeting with the approval of the Department of Public Works shall be installed.
- E. Access to the proposed lots shall meet with the approval of the Department of Public Works. Further, the Oneone Street extension within the property and the private roadway shall be constructed to dedicable standards in accordance with the requirements of the Department of Public Works and shall be dedicated to the County upon its request.
- F. The recommendations as outlined in the Archaeological Reconnaissance Survey Report shall be complied with.
- G. Should any unanticipated archaeological/historical sites or features of importance be uncovered during land preparation activities, work in the affected area shall cease immediately and the Planning Director shall be notified. Work in the affected area shall not resume until such time that clearance is obtained from the Planning Director.
- H. As represented by the applicant, restrictive covenants in the deeds of all the proposed lots within the subject

property shall prohibit the construction of an ohana dwelling or 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;

I. 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;

[H]J. All other applicable laws, rules, regulations and requirements shall be complied with.

[I]K. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of the zone change. 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.

[J]L. An 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 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).
5. If the applicant should [require] request 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. 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.]

SECTION [4]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 [5]4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

Jakobi Drury
COUNCIL MEMBER, COUNTY OF HAWAII

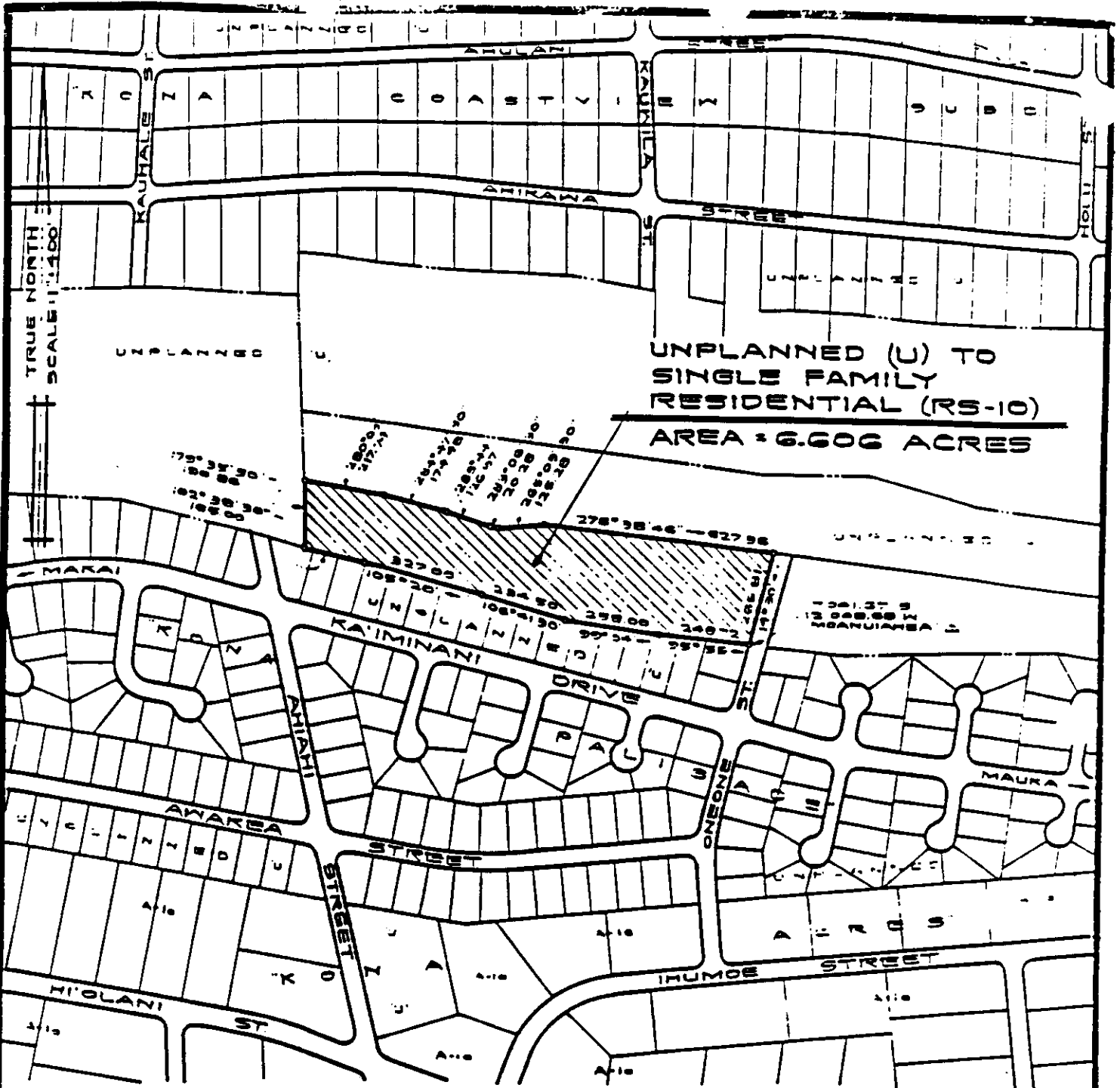
Hilo, Hawaii

Date of Introduction: October 5, 1994
Date of 1st Reading: October 5, 1994
Date of 2nd Reading: October 19, 1994
Effective Date: October 26, 1994

APPROVED AS TO FORM AND LEGALITY:

Fredrick Ho
CORPORATION COUNSEL

DATE: 10/21/94



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-10) AT KALAOA 4TH, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK : 7-3-05 : 86

NOV. 23 1987

EXHIBIT "A"

OFFICE OF THE COUNTY CLERK
County of Hawaii
Hilo, Hawaii

RECEIVED
 '94 OCT 26 AM 10 52

OFFICE OF THE COUNTY CLERK
 COUNTY OF HAWAII

(Draft 2)

Introduced By: Takashi Domingo
 Date Introduced: October 5, 1994
 First Reading: October 5, 1994
 Published: N/A

REMARKS:

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			
	9	0	0	0

Second Reading: October 19, 1994
 To Mayor: October 19, 1994
 Returned: October 26, 1994
 Effective: October 26, 1994
 Published: November 1, 1994

REMARKS:

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			
	9	0	0	0

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

**APPROVED as to
 FORM and LEGALITY**

[Signature]
 ASSISTANT CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 10/24/94

[Signature]
 COUNCIL CHAIRMAN

[Signature]
 COUNTY CLERK

Approved/Disapproved this 26 day
 of October, 1994

[Signature]
 MAYOR, COUNTY OF HAWAII

Bill No.: 309 (Draft 2)
 Reference: C-1312
 Ord. No.: 94 121