

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 68
(Draft 5)

ORDINANCE NO. 94 124

AN ORDINANCE AMENDING SECTION 25-87 (NORTH KONA ZONE MAP) AND SECTION 25-90 (KAILUA-HONALO ZONE MAP, ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM UNPLANNED (U) TO MULTIPLE FAMILY RESIDENTIAL (RM-3.5) AND SINGLE FAMILY RESIDENTIAL (RS-7.5) AND FROM RESORT-HOTEL (V-1.25) TO MULTIPLE FAMILY RESIDENTIAL (RM-3.5) AT PAHOEHOE 2ND, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-7-08:21 & 23.

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 properties described hereinafter as follows:

The district classification of the following area situated at Pahoehoe 2nd, North Kona, Hawaii, shall be Single Family Residential (RS-7.5):

Parcel 1

Beginning at the southeast corner of this parcel of land and on the west side of Kuakini Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAHELO" being 8596.13 feet South and 9142.16 feet East and running by azimuths measured clockwise from True South:

1. 83° 57' 58.58 feet along the middle of a stonewall along Grant 1751 to Kahanele; thence along the middle of a stonewall along Grant 1751 to Kahanele for the next seventeen (17) courses:

2.	63°	50'		56.40	feet;
3.	71°	58'	30"	173.83	feet;
4.	77°	38'		79.30	feet;
5.	84°	38'		37.70	feet;
6.	74°	04'		93.65	feet;
7.	64°	27'		92.32	feet;
8.	72°	59'	30"	140.80	feet;
9.	80°	38'		84.16	feet;
10.	74°	37'		50.54	feet;
11.	89°	42'		55.17	feet;
12.	86°	47'		49.08	feet;
13.	72°	53'		73.65	feet;
14.	67°	20'	30"	91.97	feet;
15.	72°	31'	10"	86.87	feet;
16.	83°	06'	10"	124.62	feet;
17.	81°	50'	40"	248.82	feet;
18.	79°	33'	30"	49.85	feet;
19.	171°	30'	25"	453.64	feet along the remainder of R.P. 1668, L.C. AW. 8520-B, Apana 3 to Gini Lahilahi; thence along the middle of a stonewall along Grant 2033 to Haleluhi for the next five (5) courses:
20.	261°	30'	25"	280.40	feet;
21.	258°	03'	25"	435.49	feet;
22.	255°	56'	35"	713.56	feet;
23.	254°	27'		48.91	feet;
24.	260°	55'	30"	34.38	feet to the west side of Kuakini Highway;

Thence, following along the west side of Kuakini Highway on a curve to the right having a radius of 5679.58 feet, the chord azimuth and distance being:

- 25. 334° 54' 19" 140.76 feet;
- 26. 245° 36' 55" 10.00 feet;

Thence, following along the west side of Kuakini Highway on a curve to the right having a radius of 5689.58 feet, the chord azimuth and distance being:

- 27. 337° 03' 33" 286.73 feet to the point of beginning and containing an area of 16.119 Acres. (Refer to Parcel 1 as shown on Exhibit "A").

The district classification of the following area situated at Pahoehoe 2nd, North Kona, Hawaii, shall be Multiple Family Residential (RM-3.5):

Parcel 2

Beginning at the southeast corner of this parcel of land and on the north side of Grant 1751 to Kahanele the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAHELO" being 8980.83 feet South and 7551.90 feet East and running by azimuths measured clockwise from True South:

Following along the middle of stonewall along Grant 1751 to Kahanele for the next eight (8) courses:

- 1. 79° 33' 30" 84.64 feet;
- 2. 72° 38' 30" 125.69 feet;
- 3. 85° 41' 30" 184.13 feet;
- 4. 68° 22' 30" 85.06 feet;

5.	90°	00'		48.31 feet;
6.	83°	09'	30"	280.19 feet;
7.	83°	07'	30"	154.83 feet;
8.	93°	53'		563.29 feet; thence following along the middle of a stonewall along Grant 1927 to Kipapa for the next five (5) courses:
9.	91°	17'	40"	192.65 feet;
10.	96°	47'	30"	102.47 feet;
11.	83°	29'	30"	206.38 feet;
12.	81°	54'	30"	295.25 feet;
13.	85°	20'		327.43 feet; thence following along the middle of a stonewall along Land Court Application 1688 for the next five (5) courses:
14.	163°	07'		34.59 feet;
15.	169°	17'		88.72 feet;
16.	89°	41'		39.07 feet;
17.	105°	36'	30"	31.05 feet;
18.	93°	54'		52.25 feet;
19.	152°	29'		74.14 feet along Land Court Application 1688;
20.	60°	00'		178.30 feet along Land Court Application 1688;
21.	155°	13'		180.03 feet along the remainder of R.P. 1668, L.C. AW. 8520-B, Apana 3 to Gini Lahilahi, along R.P. 4216, L.C. AW. 5769:2 to Kapule and along R.P. 4220, L.C. AW. 10986:2 to Nawelu;

22.	247°	51'	15"	65.58 feet along Roman Catholic Church lot; thence along the middle of a stonewall along Grant 1857 to Paakea for the next thirty-five (35) courses:
23.	252°	04'		29.71 feet;
24.	262°	12'	40"	24.49 feet;
25.	254°	19'	50"	248.67 feet;
26.	258°	50'	45"	24.39 feet;
27.	260°	50'	10"	154.25 feet;
28.	248°	14'	30"	53.52 feet;
29.	259°	57'	40"	29.15 feet;
30.	266°	08'		27.51 feet;
31.	257°	13'	50"	16.60 feet;
32.	267°	02'	10"	25.25 feet;
33.	258°	15'		26.66 feet;
34.	252°	02'	30"	36.51 feet;
35.	255°	45'	10"	37.07 feet;
36.	263°	07'		38.11 feet;
37.	291°	36'	20"	22.87 feet;
38.	275°	03'		18.11 feet;
39.	280°	45'	40"	19.57 feet;
40.	270°	12'	20"	41.97 feet;
41.	256°	28'	15"	14.69 feet;
42.	266°	35'		153.95 feet;
43.	275°	49'	30"	31.08 feet;
44.	257°	53'	45"	63.64 feet;
45.	253°	42'		18.51 feet;

46.	268°	43'	25.66 feet;
47.	260°	59' 30"	24.44 feet;
48.	275°	56' 20"	48.58 feet;
49.	270°	51' 30"	22.90 feet;
50.	281°	10'	12.28 feet;
51.	270°	19' 40"	16.40 feet;
52.	260°	49' 40"	58.02 feet;
53.	253°	39' 50"	25.24 feet;
54.	261°	10'	75.95 feet;
55.	268°	28' 40"	23.34 feet;
56.	273°	54'	12.47 feet;
57.	189°	22'	5.25 feet; thence along the middle of a stonewall along Grant 2033 to Haleluhi for the next five (5) courses:
58.	267°	48' 50"	167.26 feet;
59.	267°	30' 40"	685.53 feet;
60.	262°	29' 10"	62.61 feet;
61.	261°	17' 40"	399.11 feet;
62.	261°	30' 25"	131.00 feet;
63.	351°	30' 25"	453.64 feet along the remainder of R.P. 1668, L.C. AW. 8520-B, Apana 3 to Gini Lahilahi, to the point of beginning and containing an area of 28.245 Acres. (Refer to Parcel 2 as shown on Exhibit "A")

SECTION 2. Section 25-90, 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 Pahoehoe 2nd, North Kona, Hawaii, shall be Multiple Family Residential (RM-3.5):

Parcel 3

Beginning at the Northwesterly corner of this parcel of land, being also the Southwesterly corner of a portion of a Royal Patent 4220, Land Commission Award 10,986, Apana 2 to Nawelu and a point on the Northeasterly side of Alii Drive, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAHELO" being 9,009.15 feet South and 4,469.08 feet East and running by azimuths measured clockwise from True South:

1. 241° 14' 88.51 feet along stonewall and along Royal Patent 4220, Land Commission Award 10,986, Apana 2 to Nawelu;
2. 335° 13' 102.00 feet along Royal Patent 1668, Land Commission Award 8520-B, Apana 3 to G. Lahilahi;
3. 60° 00' 59.85 feet along Royal Patent 1668, Land Commission Award 8520-B, Apana 3 to G. Lahilahi;
4. 139° 24' 105.28 feet along the Northeasterly side of Alii Drive to the point of beginning and containing an area of 0.174 Acre. (Refer to Parcel 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 applicants, successors or assigns shall be responsible for complying with all of the stated conditions of approval;

- (B) All through streets within the RS-7.5 zoned lands of the subject property and the main arterial within the RM-3.5 zoned area of the subject property shall be constructed with curbs, gutters and sidewalks and underground utilities meeting with the approval of the Department of Public Works and dedicated to the County upon its request;
- (C) No lots shall have direct access from Kuakini Highway. Access to the proposed lots of the subject property shall be from the interior subdivision roadways;
- (D) Upon the determination by the Department of Public Works, the Alii Highway right-of-way within the subject property, which may include sufficient width for abutting frontage road(s), shall be dedicated to the County upon its request. The applicant shall comply with the dedication procedures set forth by the Planning Director. The value of the dedicated land shall be credited against the applicant's fair share contribution as required in Condition R of this ordinance. The said value shall be determined in accordance with the provisions of Section 8-8(b)(2), Chapter 8 (Park Dedication), of the Hawaii County Code;
- (E) Should an improvement or community facilities district be implemented for the construction of the proposed Alii Highway, the applicant, successors or assigns shall automatically be a participant in such district;
- (F) All accesses from the Alii Highway, including intersection improvements, shall be subject to the approval of the Department of Public Works;

- (G) Access from Alii Drive shall meet with the approval of the Department of Public Works. Further, a left-turn storage lane shall be constructed meeting with the approval of the Department of Public Works concurrently with the development of the RS or RM zoned area, whichever occurs first;
- (H) For the portion of the subject property east (mauka) of the proposed Alii Highway, no building permit(s) for the multiple family residential zoned area of the subject property and/or final subdivision approval for the single family residential zoned area of the subject property, shall be issued until funding for the construction of the entire length of the Alii Highway (to be approximately 5.6 miles) has been committed;
- (I) A drainage system shall be installed meeting with the approval of the Department of Public Works;
- (J) The method of sewage disposal shall meet with the requirements of the appropriate governmental agencies;
- (K) A solid waste management plan shall be submitted to the Department of Public Works in conjunction with the subdivision approval process for the subject property and approved by the Department of Public Works prior to Final Subdivision Approval. The approved plan shall include, but not be limited to, the management of solid waste generated from the construction and operating phase of the proposed development. 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;

- (L) An area within the eastern (makai) boundary of the subject properties and proximate to Alii Drive, not to exceed one acre, shall be conveyed to the County for a wastewater pump station. The location of the said site shall be established and dedicated to the County. The applicant shall comply with the dedication procedures set forth by the Planning Director, provided that the County shall be responsible for securing all necessary permits for the development and conveyance of the said area. The value of the dedicated land shall be credited against the applicant's fair share contribution as required in Condition R of this ordinance. The said value of the dedicated land shall be determined in accordance with the provisions of Section 8-8(b)(2), Chapter 8 (Park Dedication) of the Hawaii County Code;
- (M) An intensive archaeological survey and report, including a cultural resource management plan, shall be submitted in conjunction with a SMA permit application for the development of the subject property;
- (N) Should any unanticipated sites be uncovered during land preparation activity, work within the affected area shall cease and the Planning Director shall be immediately notified. Work within the affected area shall not resume until clearance is obtained from the Planning Director;

- (O) 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. This housing plan shall be submitted for the review and approval of the County Housing Agency prior to final subdivision approval of the proposed single-family residential subdivision or issuance of the building permit for the multiple-family residential component of the development, whichever occurs first;
- (P) As represented by the applicant, restrictive covenants in the deeds of all the proposed lots within the RS zoned area of the subject properties 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;
- (Q) In lieu of actual construction of infrastructural improvements as required herein, the applicant may enter into an agreement with the County to assure the County that the infrastructural improvements will be constructed together with the appropriate bond, surety or other security deemed acceptable to the Planning Director and the Corporation Counsel. Upon execution of such agreement and/or filing of the security with the County, final subdivision approval for the subject property or portions thereof shall be granted prior to the actual construction of required infrastructural improvements;

(R) Prior to Final Subdivision Approval or the issuance of the building permit for the RM zoned area of the subject property, as the case may be, 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, sewers 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 number of units are adjusted. The fair share contribution for each unit shall be based on a maximum density for each lot as determined by the zoning resulting from this change of zone. The fair share contribution in a form of cash, land, facilities, or any combination thereof shall have a maximum combined value of \$1,644,955.63. Commencing three years after the effective date of this ordinance, the fair share contributions described above shall be adjusted annually based on the percentage change in the Honolulu Consumer Price Index (HCPI). 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). Any contributions required by this ordinance that exceed the fair share requirement of this proposed development shall, at the applicant's request be credited towards any of the applicant's future developments that require infrastructural impact contributions or towards the affordable housing requirements which are reflected in Condition O of this ordinance;

- (S) All other applicable laws, rules, regulations and requirements, including those of the Department of Water Supply, Department of Education and Fire Department, shall be complied with;
- (T) 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;
- (U) An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of 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; and
- (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:
 - 1) the non-performance is the result of the 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; and
- 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 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 within in a timely fashion, the Director shall initiate rezoning of the area to its original or more appropriate designation.

SECTION 4. In the event that any portion of the 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: October 5, 1994
Date of 1st Reading: October 5, 1994
Date of 2nd Reading: November 30, 1994
Effective Date: December 7, 1994

APPROVED AS TO FORM AND LEGALITY:


ASSISTANT CORPORATION COUNSEL

DATE: 12/1/94

OFFICE OF THE COUNTY CLERK
 County of Hawaii
 Hilo, Hawaii

RECEIVED

'94 DEC 8 AM 8 18

(DRAFT 3) OFFICE OF COUNTY CLERK
 COUNTY OF HAWAII

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

REMARKS:
Referred to PC - 10/05/94

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			
	7	2	0	0

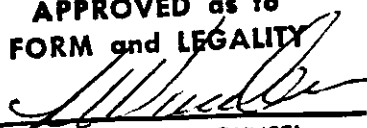
Second Reading: November 30, 1994
 To Mayor: December 1, 1994
 Returned: December 8, 1994
 Effective: December 7, 1994
 Published: December 15, 1994



REMARKS:

(DRAFT 5)

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			
	7	1	1	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

 CORPORATION COUNSEL
 COUNTY OF HAWAII
 Date 12/5/94


 COUNCIL CHAIRMAN

 COUNTY CLERK

Approved/Disapproved this 7 day
 of December, 1994


 MAYOR, COUNTY OF HAWAII

Bill No.: 68 (Draft 5)
 Reference: C-313/PC-334
 Ord. No.: 94 124