

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 34  
(Draft 2)

ORDINANCE NO. 95 51

AN ORDINANCE AMENDING SECTION 25-95A (NORTH AND SOUTH KOHALA DISTRICTS ZONE MAP) AND SECTION 25-95H (WAIKOLOA VILLAGE ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, RELATING TO THE MODIFICATION OF CONDITIONS B AND C OF ORDINANCE NO. 90-160, WHICH RECLASSIFIED APPROXIMATELY 761 ACRES OF LAND FROM AN UNPLANNED (U) AND MULTIPLE FAMILY RESIDENTIAL (RM-1.5) TO OPEN (O) AND RESIDENTIAL-AGRICULTURAL (RA-1a) AT WAIKOLOA, SOUTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 6-8-02: PORTION OF 16 AND 6-8-03: PORTION OF 32.

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

SECTION 1. Ordinance No. 90-160 is amended as follows:

"SECTION 3. This change in district classification is conditioned upon the following:

- A. The applicant, successors or its assigns shall be responsible for complying with all of the stated conditions of approval;
- [B. the RA zoned area shall be subdivided in three increments. The first and second increment shall consist of a maximum of 175 one-acre lots each and the third increment, the remaining area. Subdivision plans shall be submitted for successive increments only after development has occurred in the preceding increment as determined by the Planning Director. "Development" means that building permits have been issued for dwelling units and construction has been partially completed to the extent that roofs have been constructed on a minimum of twenty-five percent of the number of lots proposed for the first increment. In lieu of actual construction, the applicant may enter into an agreement with the Planning Department to assure the County that the dwellings will

be constructed within a given period. Such agreement shall be secured by a surety bond, certified check or other security acceptable to Corporation Counsel and the Planning Department. Upon final execution of such agreement and filing of the security with the County, subdivision plans for the next increment may be submitted prior to the actual construction of the dwellings in the first increment;]

[C]B. [Subdivision plans for the first increment shall be submitted within one year from the effective date of the change of zone.] Final subdivision approval for not less than 175 lots shall be secured within [one year from the date of receipt of tentative subdivision approval] five (5) years from the effective date of this amendment. Plans for infrastructural improvements, including off-site roadway improvements required in Condition C, shall be submitted in conjunction with construction drawings for final subdivision approval [of the first increment] for any portion of the subject property. Prior to June 30, 1996, construction of the channelization improvements to the Waikoloa/Pua Melia/Paniolo Avenue intersection (including acceleration/deceleration and left turn storage lanes and pavement and shoulder widening) meeting with the requirements of the Department of Public Works, shall be completed and dedicated to the county. In addition, the applicant shall install and dedicate the traffic signalization improvements required in Condition C prior to the Final Subdivision Approval for more than 350 lots of twenty acres or less, or sooner in the event the warrants for such installation are justified by the chief engineer. In lieu of actual construction of infrastructural improvements required herein, except for

Condition C, 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;

[D]C. Access shall meet with the requirements of the Department of Public Works. Direct access to Waikoloa Road shall be limited to one roadway from the project site. Waikoloa Road-Pua Melia Street-Paniolo Avenue intersection shall be channelized and signalized meeting with the requirements of the Department of Public Works. These improvements together with other roadway improvements required by the Department of Public Works based upon a Traffic Impact Analysis Report dated December 1989 shall be provided prior to opening of the golf course or in conjunction with final subdivision approval of the first increment, whichever occurs first, or as otherwise provided by Chapter 23 (Subdivision Control);

[E]D. To ensure that the goals and policies of the Housing Element of the General Plan are implemented, the applicant shall secure the concurrence of the County Housing Agency, upon the recommendation of the Office of Housing and Community Development, that the applicant's affordable housing requirements, if any, have been fulfilled prior to the issuance of final subdivision approval;

- [F]E. A drainage system shall be installed in accordance with the requirements of the Department of Public Works and other affected agencies;
- [G]E. Comply with all applicable laws, rules, regulations and requirements, including conditions of Use Permit No. 71;
- [H]G. 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 may, at the developer's election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance;
- [I]G. 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;
- [J]H. 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 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 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 2. Material to be deleted is bracketed. New material is underscored.

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 be effective upon its approval.

INTRODUCED BY:

  
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COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

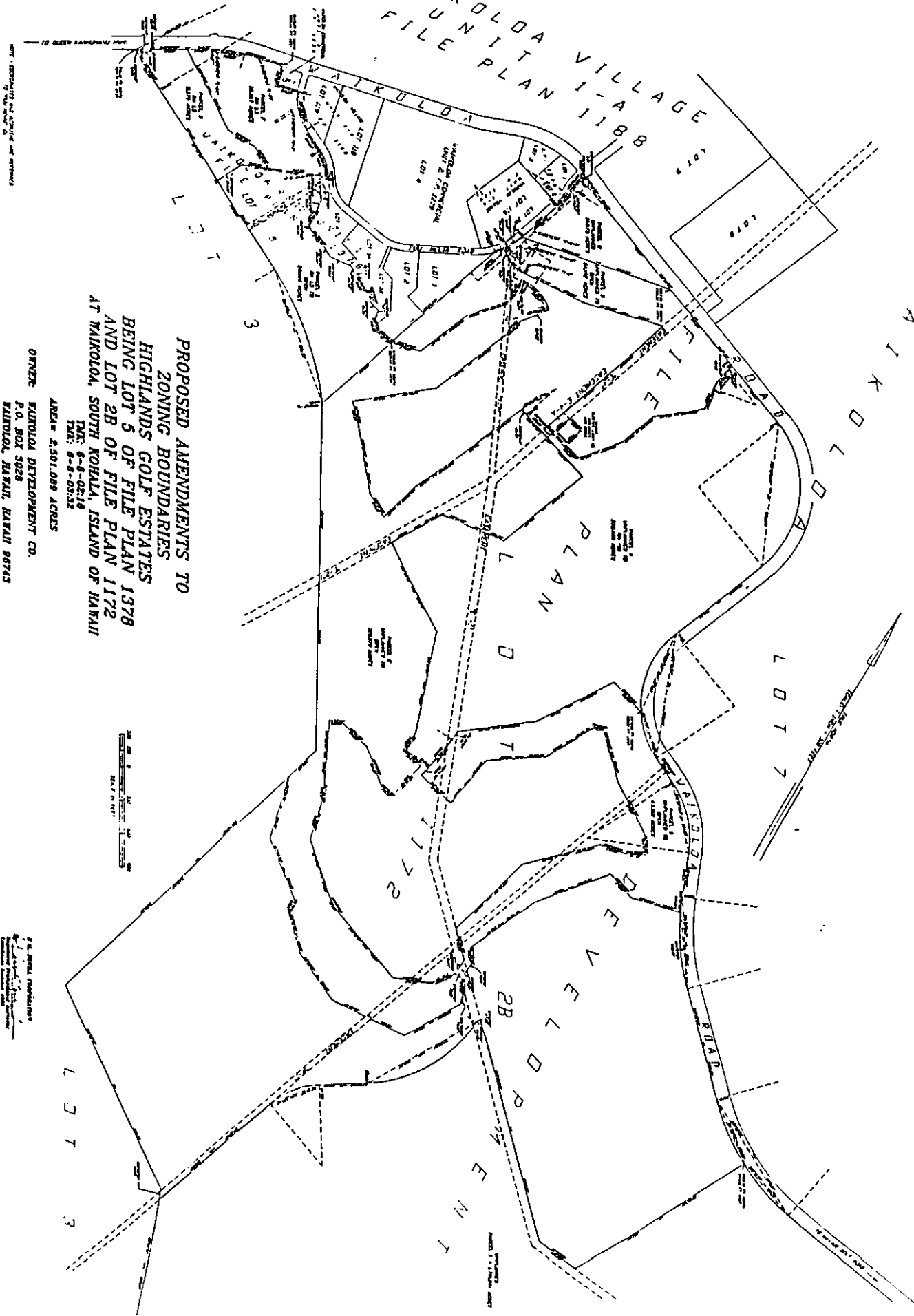
Date of Introduction: March 1, 1995  
Date of 1st Reading: March 1, 1995  
Date of 2nd Reading: March 15, 1995  
Effective Date: March 21, 1995

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
CORPORATION COUNSEL

DATED: 3/18/95

WAIKOLDA VILLAGE  
 FILE UNIT I-A  
 FILE PLAN 1188

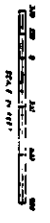


PROPOSED AMENDMENTS TO  
 ZONING BOUNDARIES  
 HIGHLANDS GOLF ESTATES  
 BEING LOT 5 OF FILE PLAN 1378  
 AND LOT 28 OF FILE PLAN 1172  
 AT WAIKOLDA, SOUTH KOHALA, ISLAND OF HAWAII

OWNER: WAIKOLDA DEVELOPMENT CO.  
 P.O. BOX 3028  
 WAIKOLDA, HAWAII, HAWAII 96743

AREA: 2,501.088 ACRES

TAX: 9-8-0218  
 TAX: 9-8-0532



STATE OF HAWAII  
 DEPARTMENT OF LAND AND NATURAL RESOURCES  
 DIVISION OF ZONING AND PLANNING

He 1119

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

(DRAFT 2)

85 MAR 21 1995

Introduced By: Keola Childs  
 Date Introduced: March 1, 1995  
 First Reading: March 1, 1995  
 Published: N/A

REMARKS:  
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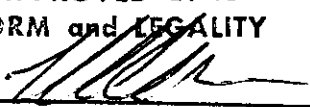
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Bonk-Abramson	X			
Childs	X			
De Lima	X			
Domingo			X	
Osorio	X			
Rath	X			
Ray	X			
Smith	X			
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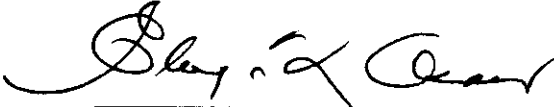

Second Reading: March 15, 1995  
 To Mayor: March 16, 1995  
 Returned: March 21, 1995  
 Effective: March 21, 1995  
 Published: March 28, 1995

REMARKS:  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Bonk-Abramson	X			
Childs	X			
De Lima	X			
Domingo	X			
Osorio	X			
Rath	X			
Ray	X			
Smith	X			
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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 MAR 20 1995

  
 COUNCIL CHAIRMAN  
  
 COUNTY CLERK

Approved / Disapproved this 21 day  
 of March, 1995

  
 MAYOR, COUNTY OF HAWAII

Bill No.: 34 (Draft 2)  
 Reference: C- 158/PC-33  
 Ord. No.: 95 51