

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 137

ORDINANCE NO. 95 118

AN ORDINANCE AMENDING SECTION 25-87 (NORTH KONA ZONE MAP) AND SECTION 25-89 (KAILUA URBAN ZONE MAP), ARTICLE 3, CHAPTER 25 (ZCNING CODE) OF THE HAWAII COUNTY CODE, ORDINANCE NO. 92-36, WHICH RECLASSIFIED LANDS FROM UNPLANNED (U) TO MULTIPLE FAMILY RESIDENTIAL (RM-2.5) AND FROM DOUBLE FAMILY RESIDENTIAL (RD-3.75) TO VILLAGE COMMERCIAL (CV-7.5) AT HIENALOLI 4TH AND 5TH, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-5-10:13 AND 7-5-23:63.

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

SECTION 1. Ordinance No. 92-36 is amended as follows:

"SECTION 2. This change in district classification is conditioned upon the following:

- A. The applicant, its successors or assigns be responsible for complying with all of the stated conditions of approval.
- B. The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety days from the date of approval of the change of zone.
- C. Consolidation approval of the subject properties shall be secured from the Planning Department within one year from the effective date of

approval of the Change of Zone request. Plans for Final Plan Approval shall not be processed until consolidation approval has been secured.

- D. Final Plan Approval shall be secured from the Planning Department within one (1) year from the effective date of approval of the consolidation approval of the subject properties. Plans to be submitted for Final Plan Approval shall include all applicable conditions of consolidation approval. To assure adequate time for plan approval review and in accordance with Chapter 25-244 (Zoning Code), plans shall be submitted a minimum of forty-five days prior to the date by which plan approval must be secured.
- E. Construction shall commence within [one] five(5) years from the date of receipt of Final Plan Approval and shall be completed within two years thereafter.
- F. A detailed archaeological mitigation plan shall be prepared and submitted for approval by the Planning Department, in consultation with the State Department of Land and Natural Resources prior to submitting plans for plan approval review. The plan submitted shall have incorporated the recommendations of the detailed archaeological mitigation plan.

- G. Should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, paving, or walks be encountered, work in the immediate area shall cease and the Planning Director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Director when it finds that sufficient mitigative measures have been taken.
- H. The applicant shall install all recommended road improvements as required by the Department of Public Works, including a left turn lane, acceleration and deceleration lanes, curb, gutter and sidewalk improvements along the Hualalai Road frontage of the subject development. Plans for these improvements shall be submitted simultaneously with plans for Final Plan Approval and shall be installed prior to issuance of a certificate of occupancy for any portion (commercial or residential) of the developments.
- I. Prior to Final Plan Approval or Final Subdivision Approval for the project, should the County determine that additional improvements in the project area are required (i.e. roadways, parks, police, fire, etc.), the applicant and its successors or assigns shall pay or contribute its

pro rata share of such additional improvements. Satisfaction of this condition may be by entering into a development agreement with the County when such a development agreement is authorized. Any pro rata share of improvements paid or contributed to the project area shall be credited to any future impact fees.

- J. The applicant shall formulate a school facilities assessment plan, which shall be reviewed and approved by the Planning Department, in consultation with the Department of Education, prior to Final Plan Approval of the residential project. The approved assessment shall be submitted to the appropriate agency prior to the issuance of a certificate of occupancy for any portion of the residential development.
- K. To ensure that the Goals and Policies of the Recreation Element of the General Plan are implemented, the applicant shall contribute a monetary fee or designate an area prior to tentative subdivision approval to the County of Hawaii, which shall be used for park purposes. The monetary fee or land area shall be calculated by methodology and procedure set forth in Sections 8-6, 8-7, and 8-8 of the Park Dedication Code of the Hawaii County Code and shall be acceptable to

the Department of Parks and Recreation and the Planning Department. If the applicant designates a park area on site, the park area shall be improved by grading and grassing prior to issuance of a certificate of occupancy for the residential development meeting with the approval of the Planning Department, in consultation with the Department of Parks and Recreation. Further, 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, prior to issuance of a certificate of occupancy for the residential development.

- 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 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. This housing plan shall be approved by the County Housing Agency prior to final plan approval of any portion of the residential zoned area; provided

that 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. Comply with all applicable laws, requirements, rules, and regulations including those of the Fire Department, Department of Health, and the Department of Land and Natural Resources.
- N. An annual progress report shall be submitted to the Planning Director prior to the anniversary 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.
- O. 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; and

P. 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); and
- (5) Should the applicant require an additional extension of time, the Planning Director shall submit the applicant's request to the County Council for appropriate action.

Q. 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 take effect upon its approval.

INTRODUCED BY:

Isabeli Domingo
COUNCIL MEMBER, COUNTY OF HAWAII

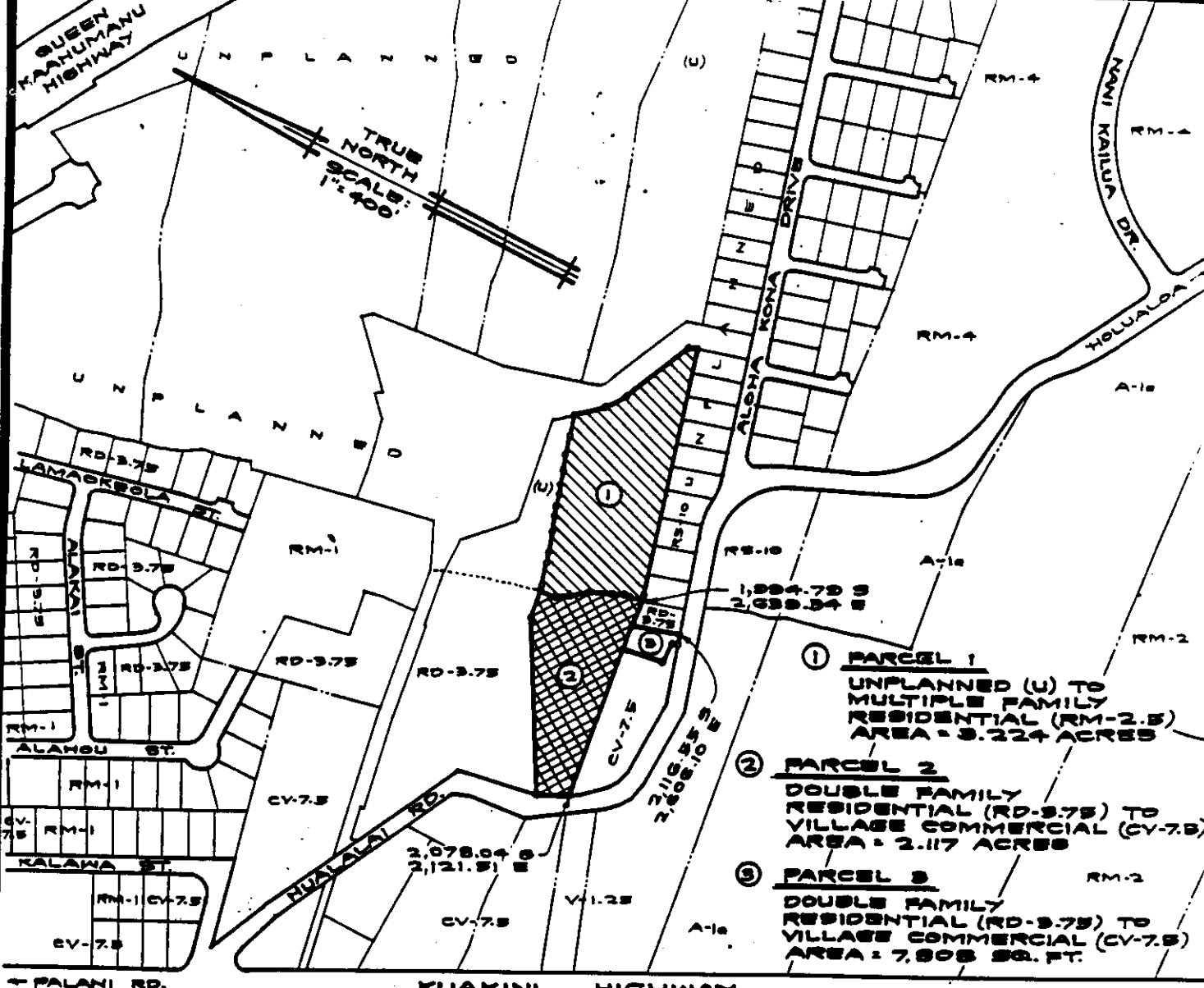
Hilo, Hawaii

Date of Introduction: September 20, 1995
Date of 1st Reading: September 20, 1995
Date of 2nd Reading: October 4, 1995
Effective Date: October 12, 1995
REF.: C-670

APPROVED AS TO FORM AND LEGALITY:

Patricia K. O'Neil
DEPUTY CORPORATION COUNSEL

DATE: OCT 10 1995



- ① **PARCEL 1**
UNPLANNED (U) TO MULTIPLE FAMILY RESIDENTIAL (RM-2.5)
AREA = 9.224 ACRES
- ② **PARCEL 2**
DOUBLE FAMILY RESIDENTIAL (RD-3.75) TO VILLAGE COMMERCIAL (CV-7.5)
AREA = 2.117 ACRES
- ③ **PARCEL 3**
DOUBLE FAMILY RESIDENTIAL (RD-3.75) TO VILLAGE COMMERCIAL (CV-7.5)
AREA = 7,908 SQ. FT.

NOTE: COORDINATES REFERRED TO KAILUA (NORTH MERIDIAN) Δ

AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-87 (NORTH KONA ZONE MAP) AND SECTION 25-89 (KAILUA URBAN 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-2.5) AND FROM DOUBLE FAMILY RESIDENTIAL (RD-3.75) TO VILLAGE COMMERCIAL (CV-7.5) AT HIENALOLI 4TH AND 5TH, NORTH KONA, HAWAII.

PREPARED BY: PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK: 7-5-10:13 AND 7-5-23:83

SEPT. 19, 1991

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

95 0118 1111-01

Introduced By: Takashi Domingo
 Date Introduced: September 20, 1995
 First Reading: September 20, 1995
 Published: N/A

REMARKS:

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			
	8	0	1	0

Second Reading: October 4, 1995
 To Mayor: October 5, 1995
 Returned: October 12, 1995
 Effective: October 12, 1995
 Published: October 20, 1995

REMARKS:

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			
	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]
 CORPORATION COUNSEL
 COUNTY OF HAWAII
 Date 10/10/95

[Signature]
 COUNCIL CHAIRMAN
[Signature]
 COUNTY CLERK

Approved / Disapproved this 12 day
 of October, 19 95

[Signature]
 MAYOR, COUNTY OF HAWAII

Bill No.: 137
 Reference: C-670/PC-75
 Ord. No.: 95 118