

COUNTY OF HAWAII      STATE OF HAWAII

BILL NO. 246  
(Draft 3)

ORDINANCE NO. 96 60

AN ORDINANCE AMENDING SECTION 25-87 (NORTH KONA ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, AS AMENDED, ORDINANCE NO. 83-28, AND ORDINANCE NO. 90-162, WHICH RECLASSIFIED LANDS FROM UNPLANNED (U) TO SINGLE FAMILY RESIDENTIAL (RS-7.5 AND RS-15) AT PAHOEHOE 4TH, LAALOA 1ST AND 2ND AND KAPALAALAEA 1ST, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-7-08:PORTION OF 11.

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

SECTION 1. Ordinance No. 83-28, as amended by Ordinance No. 90-162, is amended as follows:

"Section 2. These changes in district classification are conditioned upon the following:

- A. the applicant [petitioner], its successors, or assigns shall comply with all of the stated conditions of approval;
  
- [B. the Single Family Residential-15,000 square foot (RS-15) zoned area shall be developed in three increments. The first and second increments shall each consist of a maximum of 37 contiguous acres, and the third, the remaining area. The effective date of zoning for the subsequent increments shall be after development has occurred in the previous increment or combination of increments, as determined by the Planning Director. "Development" means that building permits have been issued for single family residential 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 units proposed for the previous increment or combination of increments within the RS-15 zoned lands. In lieu of actual construction, the petitioner may enter into an agreement with the Hawaii

County Housing Agency 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 the Hawaii County Housing Agency and the Corporation Counsel. Upon final execution of such agreement and filing of the security with the Hawaii County Housing Agency, development of the subsequent increment(s) may proceed prior to the actual construction of the dwellings in the previous increment(s);

C. the Single Family Residential-7,500 square foot (RS-7.5) zoned areas shall be development in three increments. The first and second increments shall each consist of a maximum of 12 contiguous acres, and the third, the remaining area. The effective date of zoning for the subsequent increment shall be after "development", as defined in conditions "B," has occurred in the previous increment or combination of increments within the RS-7.5 zoned lands;]

B.[D.] subdivision Plans [for the first increment of either the RS-15 or RS-7.5 zoned lands] shall be submitted [within one year from the effective date of this amendment.] to the planning department and final subdivision approval shall be secured within [one year] five years [thereafter] from the effective date of this ordinance;

C.[E.] the applicant shall prepare an overall roadway circulation plan for the entire development of the subject property for review and approval by the director, prior to the granting of final subdivision approval for any residential lot within the subject property. In approving the roadway circulation plan, the County shall take into consideration the regional circulation requirements to provide for the efficient movement of goods and people within the region bounded by Holualoa ahupua'a to the north and Keauhou ahupua'a to the south. The circulation plan shall identify the location of the major roadway systems within the subject

property and all stub-outs to properties abutting the north and south boundaries of the subject property. The director in consultation with the chief engineer, may require that a mauka-makai connector road or portions thereof, providing or facilitating a connection between Kuakini Highway and either Alii Highway or the proposed Alii Drive, be part of such roadway circulation plan and the required subdivision improvements. The applicant shall agree to construct the roads consistent with the required standards of the County and dedicate such roads to the County in conjunction with the phased subdivision and development of the subject property. Provided, any such required road connection between subdivision circulation roadways and Kuakini Highway shall be constructed or financially assured pursuant to chapter 23, Hawaii County Code, prior to the issuance of building permits for more than two hundred dwelling units within the subject property. Any road connecting to Kuakini Highway shall be a minor road as defined by chapter 23, Hawaii County Code and shall not exceed fifty (50) feet in width. [a 60-foot wide mauka-makai connecting road between Kuakini Highway and Alii Drive, meeting with the approval of the Department of Public Works, shall be constructed and completed prior to receipt of final subdivision approval of any of the proposed increments];

- D. a new access road to the subject property, other than by way of Alii Drive, meeting with the approval of the Department of Public Works shall be provided prior to the granting of final subdivision approval for any portion of the subject property other than the creation of a roadway lot and remainder areas. In lieu of the actual construction of such an approved access road which lays entirely within the subject property or within lands fully controlled by the applicant, as the director shall determine, the applicant may enter into an agreement with the County, pursuant to the provisions of chapter 23, Hawaii County Code, to assure the County that the required improvements will be constructed together with the appropriate bond, surety or other security deemed acceptable to the County. Upon

execution of such agreement and filing of the security with the County, if applicable, final subdivision approval for the subject property or portions thereof shall be granted prior to the actual construction of the required improvements. Should the new access be provided by way of Alii Highway, final subdivision approval for the subject property or portions thereof may be granted upon determination by the chief engineer that the segment of Alii Highway between Kuakini Highway and Kamehameha III Road has been financially assured and construction contracts executed;

- E.[F. the Alii Highway right-of-way and the associated easements within the property shall be dedicated to the County within six months of the date of final right-of-way determination by the Department of Public Works;] upon the determination of the required right-of-way for the Alii Highway project and/or a connector road between such highway and the makai boundary of the subject property, and upon the completion of the right-of-way subdivision(s) for such roadway portions, the applicant shall dedicate such right-of-way portion(s) in fee simple to the County upon its request;
- E.[G. the section of Alii Highway within the property shall be constructed in accordance with the requirements of the Department of Public Works. The improvements shall be constructed prior to issuance of final subdivision approval of the second zoning increment of either the RS-7.5 or RS-15 zoned area, whichever occurs later, or upon the determination by the County for the construction of the roadway, which ever occurs first;] the applicant shall make its fair share contribution to mitigate the potential regional impacts of the subject property with respect to parks and recreation , fire, police, solid waste disposal facilities, and roads. The amount of the fair share contribution shall be the sum which is the product of multiplying the number of residential lots proposed to be subdivided by the amounts allocated hereinbelow for each such lot, and shall become due and

payable prior to final subdivision approval for any portion of the subject property or its increments. If the subject property is subdivided in two or more increments, the amount of the fair share contribution due and payable prior to final subdivision approval of each increment shall be a sum calculated in the same manner according to the number of additional proposed residential lots in each such increment. The fair share contribution may be in a form of cash, land, facilities, or any combination thereof acceptable to the director in consultation with the affected agencies. The fair share contribution shall have a maximum combined value of \$7,239.16 per lot. Based upon the applicant's representation of intent to subdivide and develop up to 350 residential lots, the indicated total fair share contribution is \$2,533,706.00, however, the total amount shall be increased or reduced in proportion with the actual number of subdivided lots according to the calculation and payment provisions set forth in this Condition F. The fair share contribution shall be allocated as follows:

1. \$3,490.85 per lot, for an indicated total of \$ 1,221,797.50 to the County to support park and recreational improvements and facilities;
2. \$168.40 per lot, for an indicated total of \$58,940.00 to the County to support police facilities;
3. \$332.61 per lot, for an indicated total of \$116,413.50 to the County to support fire facilities;
4. \$145.62 per lot, for an indicated total of \$50,967.00 to the County to support solid waste facilities;
5. \$3,101.68 per lot, for an indicated total of \$1,085,588.00 to the State or County to support road and traffic improvements.

The fair share contributions described above shall be adjusted annually beginning three years after the effective date of the change of zone, based on the percentage change in the Honolulu Consumer Price Index (HCPI). In lieu of paying the fair share contribution, the applicant may construct and contribute improvements/facilities related to parks and recreation, fire, police, solid waste disposal facilities, and roads within the region impacted by the proposed development, subject to the approval of the director. The cost of constructing the improvements required in Conditions C and D, the fair market value of land contributed pursuant to Condition E, and prior cash contributions toward the planning of the Alii Highway project, shall be credited against the sum specified in Condition F(5) for road and traffic improvements. For purposes of administering Condition F, the fair market value of land contributed or the cost of any improvements required or made in lieu of the fair share contribution shall be subject to the review and approval of the director, upon consultation with the appropriate agencies;

G.[H.] all access, including intersection improvements, from Alii Highway shall meet with the approval of the Department of Public Works;

H.[I.] all roadways within the proposed development of the RS-7.5 zoned lands shall be constructed with curbs, gutters and sidewalks and underground utilities meeting with the approval of the Department of Public Works. Underground utilities shall also be required for the proposed development within the RS-15 zoned lands;

L.[J.] improvements to the intersection of Kuakini Highway, if required, shall be constructed meeting with the approval of the State Department of Transportation, Highways Division. [The intersection improvement shall be constructed concurrently with the construction of the mauka-makai roadway];

L.[K.] a drainage system as required by the Department of Public Works shall be installed;

K.[L.] the method of sewage disposal including the provision of dry sewer lines shall meet with the requirements of the appropriate governmental agencies;

L.[M.] the three archaeological sites recommended by the consulting archaeologist, including the Kuakini Wall, shall be set aside for preservation, and a cultural resources management plan shall be submitted for these sites. The management plan shall include provisions for buffer areas, structural setbacks and a maintenance program for the four sites and shall be submitted to the Historic Sites Section of the Department of Land and Natural Resources and the Planning Department for review and comment. Approval of the plan shall be secured from the [Planning Director] director prior to final subdivision approval of [the first increment of either the RS-7.5 or RS-15 zoned lands] any portion of the project area;

M.[N.] should any unanticipated sites including subsurface remains such as burials, or cave shelters, be discovered during grading of the property, work within the affected area shall cease. The [Planning Department] director shall be notified, and work shall not resume within the affected area until the [Planning Director] director in consultation with the Department of Land and Natural Resources- Historic Preservation Division has approved the disposition of the site(s);

N.[O.] the requirements of the Department of Water Supply be complied with; [and]

Q.[P.] all other applicable laws, rules, regulations, and requirements shall be complied with;

P.[Q.] 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 developers' election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance;

Q.[R.] an annual progress report shall be submitted to the [Planning Director] director prior to the anniversary date of this amendment. 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] director acknowledges that further reports are not required; [and]

R. an initial extension of time for the performance of conditions within the ordinance may be granted by the 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 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, except the period set forth in Condition B shall not be extended by more than one year; and



S. 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 the 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:

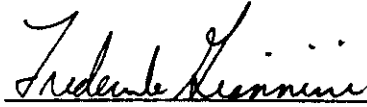


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: May 1, 1996  
Date of 1st Reading: May 1, 1996  
Date of 2nd Reading: May 13, 1996  
Effective Date: May 22, 1996

APPROVED AS TO FORM AND LEGALITY:



DEPUTY CORPORATION COUNSEL

DATED: 5/15/96

REFERENCE: Comm. 1088.04

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

(DRAFT 2)

Introduced By: Takashi Domingo  
 Date Introduced: May 1, 1996  
 First Reading: May 1, 1996  
 Published: N/A

REMARKS:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

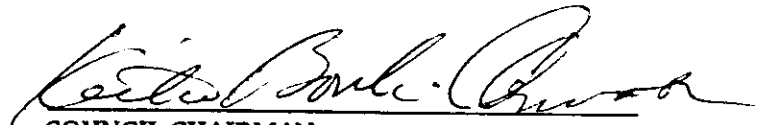
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Bonk-Abramson		X		
Childs	X			
De Lima	X			
Domingo	X			
Osorio	X			
Rath	X			
Ray	X			
Smith	X			
	8	1	0	0

Second Reading: May 13, 1996  
 To Mayor: May 14, 1996  
 Returned: May 23, 1996  
 Effective: May 22, 1996  
 Published: May 30, 1996

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	1	0	0

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

  
 COUNCIL CHAIRMAN

  
 COUNTY CLERK

Approved/Disapproved this 22 day  
 of May, 19 96.

  
 MAYOR, COUNTY OF HAWAII

Bill No.: 246 (Draft 3)  
 Reference: C-1088/PC-113  
 Ord. No.: 96 60