

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 247
(Draft 3)

ORDINANCE NO. 96 61

AN ORDINANCE AMENDING SECTION 25-87 (NORTH KONA ZONE MAP), SECTION 25-89 (THE KAILUA URBAN ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, AS AMENDED, ORDINANCE NO. 870, AND ORDINANCE NO. 86-79, WHICH RECLASSIFIED LANDS FROM UNPLANNED (U) TO MULTIPLE FAMILY RESIDENTIAL (RM-4 AND RM-7) AND FROM DOUBLE FAMILY RESIDENTIAL (RD-3.75) TO MULTIPLE FAMILY RESIDENTIAL (RM-4) AT WAIAHA 2ND AND KAHULUI 1ST, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-5-18:61 AND 7-5-19:PORTION OF 5 AND 40.

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

SECTION 1. Ordinance No. 870, as amended by Ordinance No. 86-79, is amended as follows:

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

- A. that the applicant [petitioner], its successors or assigns, shall be responsible for complying with all conditions of the change of zone;

- B. [that prior to the issuance of any further permits or approvals except those for grubbing, the petitioner shall submit an overall site development plan for the approval of the Chief Engineer and the Planning Director within one year from the effective date of this amendment. The site development plan shall include the following: general alignment and right-of-way widths of all streets, the location and density of various land uses, maintenance of scenic vistas, the proposed treatment of archaeological sites, and the location and type of major landscaping elements. Subsequent development shall be consistent with the approved site development plan unless otherwise approved by the Planning

Director. In lieu of this the petitioner may proceed through the Planned Unit Development (PUD) process;

- C. that the zoning for the RM-4 area shall be on an incremental basis. Development shall be in two (2) or more increments with each increment to be not less than 10 acres nor to exceed 20 acres. The effective date of zoning for the second and any succeeding increments shall be after development has occurred in the prior increment. "Development" means that building permits have been issued for residential dwelling units and construction has been partially completed to the extent that roofs have been constructed on a minimum of twenty-five percent (25%) of the number of units proposed for the entire prior increment. The petitioner may enter into an agreement with the Hawaii County Housing Agency for a bond to assure the County that the dwellings will be constructed within a given period. Such agreement shall meet with the approval of the Corporation Counsel and the Hawaii County Housing Agency. Upon final execution of such agreement, development of the succeeding increments may proceed prior to the actual construction of the dwellings in that prior increment;
- D. that plans for subdivision, if applicable shall be submitted within one year from the date of receipt of a SMA Use Permit. Final subdivision plans shall be submitted within one year from the date of tentative subdivision approval;
- E. that plans for Plan Approval, if applicable, shall be submitted within one year from the effective date of receipt of a SMA Permit;
- F. construction shall commence within one (1) year from the date of receipt of each respective final plan approval and shall be completed within two (2) years thereafter;] subdivision plans and/or plans for plan approval shall be submitted to

the planning director and final subdivision or plan approval, whichever is applicable, shall be secured within five (5) years from the effective date of this ordinance;

- C. [G. that the petitioner shall dedicate the Alii Highway right-of-way and the associated easements within the subject property to the County within six (6) months of the date of final right-of-way determination by the Chief Engineer;] upon the determination of the required right-of-way for the Alii Highway project by the Department of Public Works and the completion of the right-of-way subdivision by the County, the applicant shall dedicate such right-of-way portion(s) in fee simple to the County upon its request;
- D. [H. that the petitioner, alone, or in cooperation with other property owners, shall construct and complete the portion of the Alii Highway from the Kuakini Highway to the southern end of the subject property, including Kuakini Highway intersection improvements and left turn pockets for the property access road meeting with the approval of the Chief Engineer, prior to the issuance of any occupancy permits on the subject property;] 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 units proposed to be developed by the amounts allocated hereinbelow for each such unit, and shall become due and payable prior to final plan approval for any portion of the subject property or its increments. If the subject property is developed in two or more increments, the amount of the fair share contribution due and payable prior to final plan approval of each increment shall be a sum calculated in the same manner according to the number of additional proposed residential units 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 \$4,645.29 per multiple-family residential unit or \$7,239.16 per single-family residential unit. Based upon the applicant's representation of intent to develop up to 400 residential units, the indicated total fair share contribution is \$1,858,116.00 or \$2,895,664.00 whichever is applicable. However, the total amount shall be increased or reduced in proportion with the actual number of units according to the calculation and payment provisions set forth in this Condition D. The fair share contribution shall be allocated as follows:

1. \$2,291.39 per multiple-family residential unit for an indicated total of \$916,556.00 or \$3,490.85 per single-family residential unit for an indicated total of \$1,396,340.00 to the County to support park and recreational improvements and facilities;
2. \$72.42 per multiple-family residential unit for an indicated total of \$28,968.00 or \$168.40 per single-family residential unit for an indicated total of \$67,360.00 to the County to support police facilities;
3. \$222.77 per multiple-family residential unit for an indicated total of \$89,108.00 or \$322.61 per single-family residential unit for an indicated total of \$129,044.00 to the County to support fire facilities;
4. \$99.29 per multiple-family residential unit for an indicated total of \$39,716.00 or \$145.62 per single-family residential unit for an indicated total of \$58,248.00 to the County to support solid waste facilities;

5. \$1,959.42 per multiple-family residential unit for an indicated total of \$783,768.00 or \$3,101.68 per single-family residential unit for an indicated total of \$1,240,672.00 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 Condition E, the fair market value of land contributed pursuant to Condition C, and prior cash contributions towards the planning of the Alii Highway project, shall be credited against the sum specified in Condition D(5) for road and traffic improvements. For purposes of administering Condition D, 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;

E. [I.] [that the petitioner shall construct an complete a connecting road between Alii Highway and Alii Drive, meeting with the approval of the Chief Engineer, prior to the issuance of any occupance permits for those portions of the subject property makai of the Alii Highway;] any access from Alii Highway, including intersection improvements and a connector roadway to Alii Drive, shall meet with the approval of the Department of Public Works;

- [J. that no direct access off the Kuakini Highway shall be permitted;]
- E. [K.] should the applicant propose to construct any improvements within the Waiaha 100 year flood plain established by the county pursuant to chapter 27 of the Hawaii County Code, other than roads, pedestrian or bicycle paths or trails, landscaping, or yards and opens space, [that] the [petitioner] applicant, alone, or in conjunction with other affected property owners and the County, shall construct and complete drainage improvements within the Waiaha flood plain including the replacement of the Kahului Bridge on Alii Drive prior to the issuance of occupancy permits on the subject property. All required improvements shall meet with the approval of the Chief Engineer;
- G. upon request of the mayor, the applicant shall dedicate in fee simple to the county, without cost to the county, the lands or portions of lands within the Waiaha 100 year flood plain described in Condition F as the mayor may request for the purpose of public construction of drainage or floodway improvements. In the event any such dedicated lands are improved with public recreation facilities, including without limitation parks, paths, or bikeways, the applicant shall be credited for the value of such lands against the sums to be assessed as fair share contribution for recreational purposes pursuant to Condition D;
- H. [L.] that all other applicable rules, regulations and requirements, including those of the Department of Water Supply and Department of Health shall be complied with; [and
- M. a SMA Use Permit application for the proposed development, if applicable, shall be submitted within one year from the date of approval of the overall site development plan required under Condition B, above. The Planning Director may administratively grant extensions to the foregoing time conditions.

Further, should any of the conditions not be met or complied with in a timely fashion, the Director may initiate rezoning of the property to its original or more appropriate designation.]

- I. An archaeological study/survey of the subject property shall be prepared and approved by the Department of Land and Natural Resources-Historic Preservation Division, prior to the submittal of plans for subdivision review or any land alteration activity, whichever occurs first. The scope of work for the archaeological study shall be determined by DLNR-HPD. Should significant historical sites be found within the subject property which merit preservation or the implementation of mitigative measures, the applicant shall prepare and submit an archaeological preservation/mitigation plan for review and approval by DLNR-HPD prior to issuance of final subdivision approval or any land alteration activity, whichever occurs first:

- I. Should any unidentified sites or remains such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, pavings or walls be encountered, work in the immediate area shall cease and the director shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the director in consultation with the Department of Land and Natural Resources-Historic Preservation Division, when it finds that sufficient mitigative measures have been taken:

- K. should the council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or assessments of impacts fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance:

- L. an annual progress report shall be submitted to the director prior to each anniversary date of the approval of this change of zone. The report shall

address in detail the status of the development and the compliance with the conditions of approval. This conditions shall remain in effect until all of the conditions of approval have been complied with the director acknowledges that further reports are not required;

M. 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

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 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:

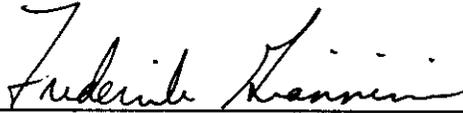


COUNCIL MEMBER, COUNTY OF HAWAII

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:



CORPORATION COUNSEL

DATED: 5/15/96

DEPUTY

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

(DRAFT 3)

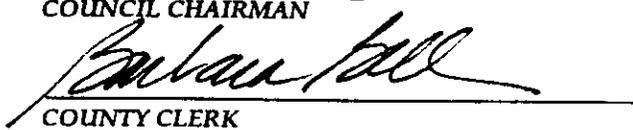
Second Reading: May 13, 1996
 To Mayor: May 14, 1996
 Returned: May 23, 1996
 Effective: May 22, 1996
 Published: May 30, 1996

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.: 247 (Draft 3)
 Reference: C-1089/PC-114
 Ord. No.: 96 61