

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 293

ORDINANCE NO. 96 104

AN ORDINANCE AMENDING SECTION 25-90 (KAILUA-HONALO URBAN ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, AS AMENDED, ORDINANCE NO. 89-78 AND ORDINANCE NO. 93-67, WHICH RECLASSIFIED LANDS FROM SINGLE FAMILY RESIDENTIAL (RS-7.5) TO MULTIPLE FAMILY RESIDENTIAL (RM-1) ZONED DISTRICT AT KAHALUU, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-8-14:90.

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

SECTION 1. Ordinance No. 89-78, as amended by Ordinance No. 93-67, is amended as follows:

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

- (A) the applicant, successors or its assigns shall comply with the stated conditions of approval;
- (B) final consolidation approval shall be secured within one year from the effective date of the change of zone;
- (C) Final Plan Approval for the entire development shall be secured within one year from the effective date of this amendment. 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;
- (D) the applicant shall submit the required water commitment payment to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety days from the date of amendment to this change of zone;
- (E) construction shall commence within [one] five (5) years from the date of receipt of Final Plan Approval and be completed within two years thereafter;

- (F) access(es) shall meet with the approval of the Department of Public Works. Further, curbs, gutters and sidewalk shall be installed along the south side of Makolea Street fronting the subject properties in a manner meeting with the approval of the Department of Public Works prior to issuance of an occupancy permit;
- (G) two copies of an intensive archaeological survey report shall be submitted for review and approval by the Planning Department with concurrence from the Department of Land and Natural Resources-Historic Sites Section at the time of plan approval review and/or prior to any land preparation activity being conducted on the properties;
- (H) should any unanticipated sites or remains, such as artifacts, shell, bone or charcoal deposits, human burials, rock or coral alignments, paving or walls be encountered, work in the affected area shall cease and the Planning Department immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning Department when it finds that sufficient mitigative measures have been taken;
- (I) to ensure that the Goals and Policies of the Housing Element of the General Plan are implemented as proposed, the applicant shall work with the Office of Housing and Community Development and the Planning Department to formulate a housing plan for the development to assure it addresses the affordable housing needs of the community. This housing plan shall be approved by the County Housing Agency prior to the issuance of a building permit for the project;
- (J) a drainage system shall be installed in accordance with the requirements of the Department of Public Works;
- (K) method of sewage disposal shall meet with the approval of the appropriate governmental agencies;

- (L) to ensure that the goals and policies of the Recreation Element of the General Plan are implemented, the applicant, in lieu of providing a park site, shall contribute a monetary contribution to the County of Hawaii to be used for park purposes at Kahaluu Beach Park of North Kona in the sum of twenty thousand dollars (\$20,000). An initial payment of ten thousand dollars (\$10,000) shall be paid prior to Final Plan Approval and the balance shall be paid prior to the Issuance of the Certificate of Occupancy and shall be credited towards satisfying a portion or all of the applicant's fair share contribution to the recreational assessment;
- (M) an emergency preparedness and response plan shall be submitted to the Planning Department and Hawaii County Civil Defense Agency for review and approval prior to occupancy of any of the proposed units;
- (N) all applicable County and State laws, rules, regulations and requirements shall be complied with;
- (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 shall be credited towards the requirements of the Unified Impact Fees Ordinance;
- (P) 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
- (Q) 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 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;
- 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 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:



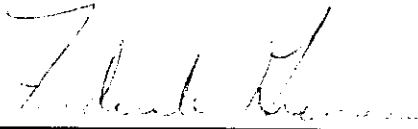
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: August 23, 1996
Date of 1st Reading: August 23, 1996
Date of 2nd Reading: September 6, 1996
Effective Date: September 19, 1996

REFERENCE: Comm. 1270

APPROVED AS TO FORM AND LEGALITY:



CORPORATION COUNSEL

DATED: 9/2/96

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

3 OCT 19 11 1 47

Introduced By: Takashi Domingo
 Date Introduced: August 23, 1996
 First Reading: August 23, 1996
 Published: September 1, 1996

REMARKS:

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki			X	
Easley	X			
Childs	X			
De Lima	X			
Domingo	X			
Osorio	X			
Van De Car		X		
Ray	X			
Smith	X			
	7	1	1	0


Second Reading: September 6, 1996
 To Mayor: September 11, 1996
 Returned: September 19, 1996
 Effective: September 19, 1996
 Published: September 30, 1996

REMARKS:

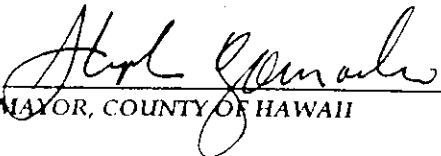
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De Lima	X			
Domingo			X	
Osorio	X			
Van De Car	X			
Ray			X	
Smith	X			
	7	0	2	0

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 19 day
 of September, 19 96.


 MAYOR, COUNTY OF HAWAII

Bill No.: 293
 Reference: C-1270/PC-138
 Ord. No.: 96 104