

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 296  
(Draft 4)

ORDINANCE NO. 96 115

AN ORDINANCE AMENDING SECTION 25-87 (NORTH KONA ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM UNPLANNED (U) TO SINGLE FAMILY RESIDENTIAL (RS-10) AT KALAOA 4th, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-3-5:12.

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

SECTION 1. Section 25-87, Article 3, Chapter 25 (Zoning Code) of the Hawaii County Code, is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Kalaoa 4th, North Kona, Hawaii, shall be Single Family Residential (RS-10):

Beginning at the southeast corner of this parcel of land, being also the northeast corner of Lot 4, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA," being 6,784.32 feet South and 11,982.13 feet West, thence running by azimuths measured clockwise from true South:

- 1. 96° 38' 46" 627.36 feet along the remainder of Grant 1607 to Nawahie (Lot 4);
- 2. 85° 03' 30" 125.28 feet along same;
- 3. 103° 06' 30" 20.28 feet along same;
- 4. 108° 44' 126.97 feet along same;
- 5. 104° 47' 30" 174.48 feet along same;
- 6. 100° 03' 217.74 feet along same;
- 7. 180° 41' 116.32 feet along Grant 3750 to Kahananui;

- |     |              |   |
|-----|--------------|---|
| 8.  | 177° 57' 30" | 75.34 feet along same;  |
| 9.  | 277° 34' 30" | 280.49 feet along Grant 1608 to<br>Kekeleaukai;   |
| 10. | 277° 45'     | 963.60 feet along same;   |
| 11. | 268° 41' 30" | 95.55 feet along same;  |
| 12. | 14° 30'      | 223.73 feet along the remainder of Grant<br>1607 to Nawahie (Lot C, 50-ft. road)<br>to the point of beginning and<br>containing an area of 6.438 Acres. |

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

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

- A. The applicant, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. Final Subdivision Approval of the proposed residential subdivision shall be secured from the Planning Director within five (5) years from the effective date of this ordinance.
- C. The proposed interior roads shall be built to Department of Public Works Dedicable Standards and extended to the north boundary of the subject property according to an alignment and design approved by the Department of Public Works and which is appropriate for further connection to Kauwila Street. All such interior roads shall be dedicated to the County upon their completion.
- D. Concurrently with the construction of the interior roadways within the subject property:

1. the roadway lot abutting the mauka (eastern) boundary of the subject property shall be improved to county dedicable standards as an extension of Oneone Street, and the applicant, its successors, or assigns shall dedicate its ownership interest in such improved roadway lot to the County upon the County's request; and
  
2. if the section of Kauwila Street right-of-way between the subject property and the existing terminus of Kauwila Street at the boundary of Kona Coastview Subdivision, and which is presently a portion of the abutting northern property identified as TMK: 7-3-5:13, has been dedicated to and accepted by the county but has not been improved to standards approved by the Department of Public Works prior to final subdivision approval of the subject property, the applicant shall submit a road improvement program for the pavement of a two-lane road across such right-of-way section. Such improvements shall be according to a design meeting with the approval of the Department of Public Works, and which would provide a permanent extension of Kauwila Street to the subject property and its interconnection with the subject property as set forth in Condition C. Said improvement program, including engineering design costs, shall be limited to a budget commensurate with the fair share contribution relating to roads set forth in Condition J and shall provide an implementation timetable. The road improvements shall be completed or sufficient surety provided in conjunction with final subdivision approval of the subject property. In the event that the section of Kauwila Street described above has not been dedicated to and accepted by the county prior to the date on which the applicant is eligible for final subdivision approval of the subject property, or in the event that the county has itself established a program and sufficient funding for the road improvements described in this condition prior to the applicant being eligible for final subdivision approval of the

subject property, the applicant shall not be required to provide the improvements described set forth in this condition.

- E. Pedestrian walkway along the makai side of Oneone Street, between the subject property and Ka'iminani Drive meeting with the approval of the Department of Public Works, shall be constructed prior to or in conjunction with the issuance of Final Subdivision Approval.
  
- F. Restrictive covenants in the deeds of all proposed residential lots shall prohibit the construction of a second dwelling unit on each lot. A copy of the proposed covenants to be recorded with the Bureau of Conveyances shall be submitted with the plans for subdivision to the Planning Director for review and approval. A copy of the approved covenant(s) shall be recited in an instrument executed by the applicant and the County and recorded with the Bureau of Conveyances in conjunction with the issuance of Final Subdivision Approval.
  
- G. A data recovery and mitigation plan of the subject property shall be submitted for review and approval by the State Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD), prior to the submittal of plans for subdivision review or any land alteration activity, whichever occurs first.
  
- H. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials, be encountered, work in the immediate area shall cease and the DLNR-HPD shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigative measures have been taken.

- I. Should the Council adopt a Unified Impact-Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fee Ordinance.
- J. 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 fifteen residential lots, the indicated total fair share contribution is **\$108,587.40**, 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 J. The fair share contribution shall be allocated as follows:
1. \$3,490.85 per lot, for an indicated total of **\$52,362.75** to the County to support park and recreational improvements and facilities;

2. \$168.40 per lot, for an indicated total of **\$2,526.00** to the County to support police facilities;
3. \$332.61 per lot, for an indicated total of **\$4,989.15** to the County to support fire facilities;
4. \$145.62 per lot, for an indicated total of **\$2,184.30** to the County to support solid waste facilities;
5. \$3,101.68 per lot, for an indicated total of **\$46,525.20** 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. For purposes of administering Condition J, 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.

- K. 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).
  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.
- L. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the area to its original or more appropriate designation.

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:

*Isaac Young*  
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 18, 1996  
Effective Date: September 26, 1996

APPROVED AS TO FORM AND LEGALITY

*Fredrick Korman*

DEPUTY CORPORATION COUNSEL

DATED: 9/20/96





OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

RECEIVED

'96 SEP 26 PM 3 02

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

REMARKS:  
08/23/96 - Referred back to Planning Committee  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

OFFICE OF <b>ROLL CALL VOTE</b>				
COUNTY OF HAWAII	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			
	8	0	1	0

(DRAFT 4)

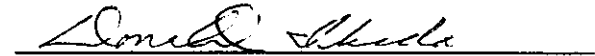
Second Reading: September 18, 1996  
 To Mayor: September 18, 1996  
 Returned: September 26, 1996  
 Effective: September 26, 1996  
 Published: October 4, 1996

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

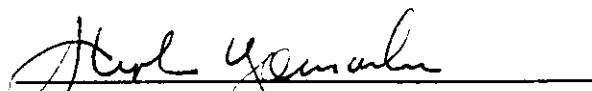
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Easley	X			
Childs	X			
De Lima	X			
Domingo	X			
Osorio	X			
Van De Car		X		
Ray	X			
Smith	X			
	8	1	0	0

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 26 day  
 of September, 19 96.

  
 \_\_\_\_\_  
 MAYOR, COUNTY OF HAWAII

Bill No.: 296 (Draft 4)  
 Reference: C-1272/PC-140  
 Ord. No.: 96 115