

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 323
(Draft 4)

ORDINANCE NO. 96 133

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 1ST AND 2ND, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-3-11:43.

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 1st and 2nd,

North Kona, Hawaii, shall be Single Family Residential (RS-10):

Being at a 3/4 inch pipe (found) at the southeasterly corner of this parcel of land, being also the northeasterly corner of Lot A-122 of Kona Highlands, Section 1-A (File Plan 688) being also a point on the westerly side of the Hawaii Belt Road (F.A.P. Project No. F-10 (5) the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 4,155.02 feet south and 8,798.70 feet west and running by azimuths measured clockwise from true south:

1. 88° 25' 195.63 feet along the northerly side of Mihalani Street to a 1/2 inch pipe (set);
2. 178° 25' 456.90 feet along Lots A-25 thru A-30, inclusive, of Kona Highlands Subdivision, Section A (File Plan 688) and along the remainder of Grant 3027 to Heuheu to a 3/4 inch pipe (found);
3. 268° 47' 08" 203.44 feet along Lot 3-A and along Grant 4123 D. W. Haiha to a 3/4 inch pipe (found);

Thence, following along the westerly side of Hawaii Belt Road (F.A.P. Project No. F-10 (5)) on a curve to the left with radius of 5,769.58 feet, the chord azimuth and distance being:

4. 359° 23' 55" 455.65 feet to the point of beginning and containing an area of 2.059 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, its successors or assigns be responsible for complying with all of the stated conditions of approval.
- B. Final Subdivision Approval of the proposed development shall be secured within five (5) years from the effective date of this ordinance.
- C. To address pedestrian and bicyclist safety, driveway access(es) and roadway improvements, including but not limited to paved shoulders along the subject property's Mahilani Drive frontage, transitions, striping, and relocation of utilities, shall be constructed prior to final subdivision approval and in a manner meeting with the requirements and approval of the Department of Public Works. Access to the proposed lots shall be limited to one access point and taken only from Mahilani Drive. In lieu of actual construction of infrastructural improvements as required herein, the applicant may enter into an agreement with the Planning Director and the Department of Public Works, if applicable, to assure the County that the infrastructural improvements will be constructed together with the appropriate bond, surety or other security deemed acceptable to the Planning Director and Corporation Counsel. Upon execution of such agreement and/or filing of the security with the County, final subdivision approval for the subject

property or portions thereof, may be granted prior to the actual construction of required infrastructural improvements unless otherwise restricted herein;

- D. Any improvements within the Hawaii Belt Road shall be constructed in a manner meeting with the requirements and approval of the State Department of Transportation Highways Division prior to the issuance of Final Subdivision Approval.
- E. Drainage, water system improvements and wastewater disposal system shall meet the approval of the Department of Public Works, Department of Water Supply and/or State Department of Health.
- F. An archaeological inventory survey shall be conducted and a report shall be submitted to the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) for review and approval prior to the issuance of any land alteration permits or issuance of Final Subdivision Approval, whichever occurs first. Any further work determined to be necessary by the DLNR-HPD shall be prepared and approved by DLNR-HPD prior to issuance of any land alteration permits or issuance of Final Subdivision Approval, whichever occurs first.
- G. Should any unidentified 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 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.

H. 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 and 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 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 four (4) residential lots, the indicated total fair share contribution is **\$28,956.64**, 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 H. The fair share contribution shall be allocated as follows:

1. \$3,490.85 per lot for an indicated total of **\$13,963.40** to the County to support park and recreational improvements and facilities;
2. \$168.40 per lot, for an indicated total of **\$673.60** to the County to support police facilities;
3. \$332.61 per lot, for an indicated total of **\$1,330.44** to the County to support fire facilities;

4. \$145.62 per lot, for an indicated total of **\$582.48** to the County to support solid waste facilities; and
5. \$3,101.68 per lot, for an indicated total of **\$12,406.72** 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 land, 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 roadway improvements required in Conditions C and D shall be credited against the sum specified in Condition H(5) relating to road and traffic improvements. For purposes of administering Condition H, 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;

- I. Should any of the proposed lots within the subject property be further subdivided into approximately 10,000 square foot lots, restrictive covenants in the deeds of all such lots within the subject property shall prohibit the construction of an ohana dwelling or a second dwelling unit on each lot. A copy of the covenants with this requirement shall be submitted to the Planning Director for review and approval and a copy of the approved covenant shall be recited in an instrument executed by the applicant and the County in conjunction with final subdivision approval for any portion of the subject property. A copy of the

recorded document shall be filed with the Planning Director upon its receipt from the Bureau of Conveyances.

J. To ensure that the goals and policies of the Housing Element of the General Plan are implemented, the applicant shall secure the concurrence of the Office of Housing and Community Development that the applicant's affordable housing requirements, if any, have been mutually agreed to prior to Final Subdivision Approval for any portion of the subject property.

K. Comply with applicable laws, rules, regulations and requirements of other affected agencies for approval of the development.

L. 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).

- M. 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 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:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

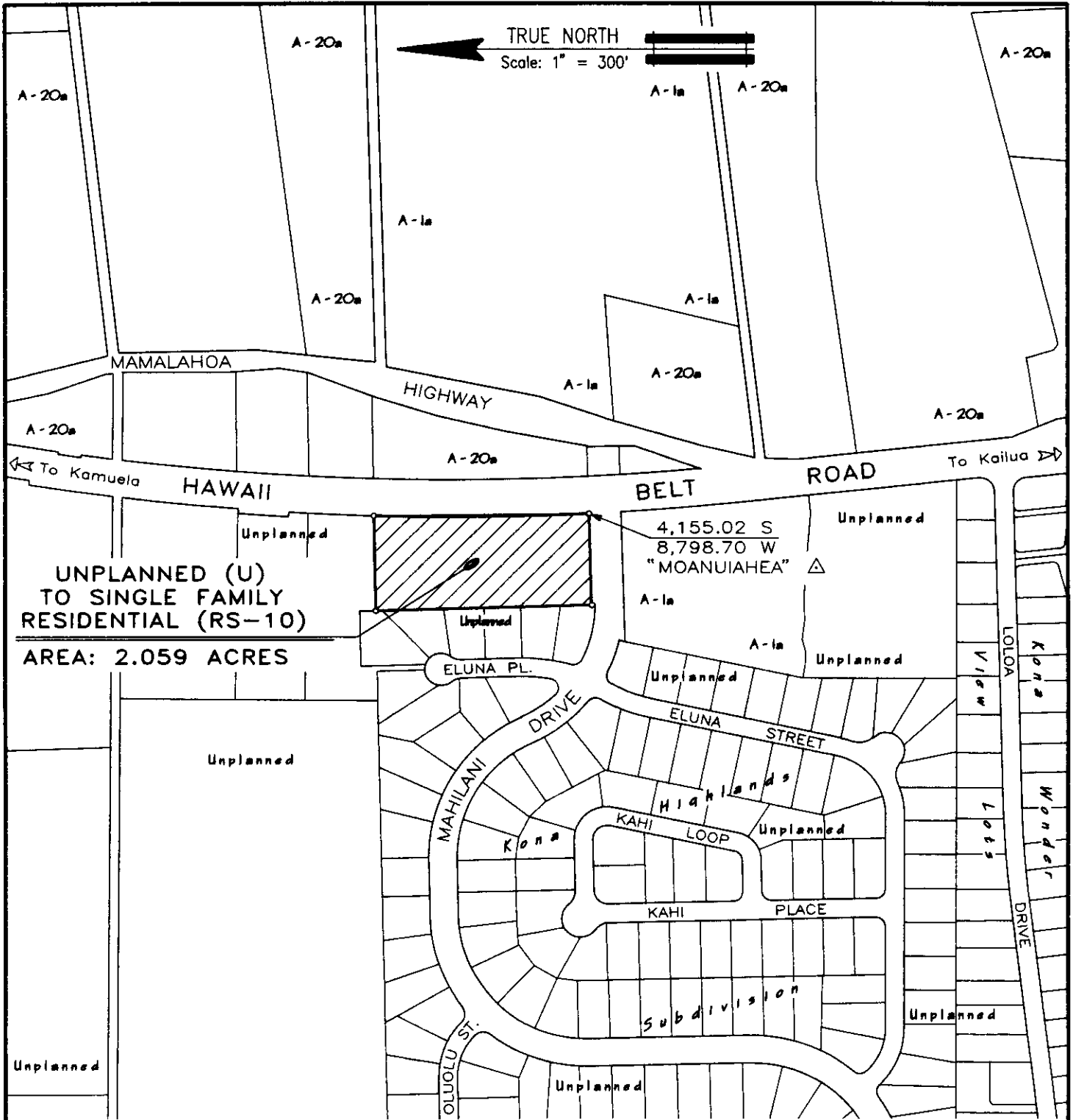
Date of Introduction: October 2, 1996
Date of 1st Reading: October 2, 1996
Date of 2nd Reading: October 16, 1996
Effective Date: October 23, 1996

APPROVED AS TO FORM AND LEGALITY



DEPUTY CORPORATION COUNSEL

DATED: 10/21/96



AMENDMENT TO THE ZONING CODE

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 1st & 2nd, NORTH KONA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII



OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

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(DRAFT 2) OFFICE OF THE COUNTY CLERK

Introduced By: Takashi Domingo
 Date Introduced: October 2, 1996
 First Reading: October 2, 1996
 Published: October 9, 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



Second Reading: October 16, 1996
 To Mayor: October 17, 1996
 Returned: October 23, 1996
 Effective: October 23, 1996
 Published: November 8, 1996

REMARKS:


(DRAFT 4)

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

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 23 day
 of October, 19 96.


 MAYOR, COUNTY OF HAWAII

Bill No.: 323 (Draft 4)
 Reference: C-1352/PC-153
 Ord. No.: 96 133