

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 93

ORDINANCE NO. 97 99

AN ORDINANCE AMENDING ORDINANCE NO. 84-23, AS AMENDED BY ORDINANCE NOS. 84-42, 88-4, 90-62, 91-96, 93-26 and 94-34, WHICH RECLASSIFIED CERTAIN LANDS FROM UNPLANNED (U) TO MULTIPLE FAMILY (RM-5) AND SINGLE-FAMILY RESIDENTIAL (RS-15) ZONED DISTRICT AT HOLUALOA 1 and 2, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-6-21; 4, 9-13, AND 15-17.

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

SECTION 1. Ordinance No. 84-23, as amended by Ordinance Nos. 84-42, 88-4, 90-62, 91-96, 93-26 and 94-34, is further amended as follows:

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

- (A) the zoning for the property shall be effective only after: (1) there are assurances satisfactory to the Departments of Water Supply and Planning, upon consultation with the State Department of Health, and the Division of Water and Land Development of the State Department of Land and Natural Resources, that a water source of sufficient quality and quantity has been established within two years from the effective date of this ordinance; provided that a maximum one-year extension to the two-year time limit may be granted by the Planning Director with reasonable and sufficient justification; and (2) an agreement, accompanied by an appropriate surety bond or other acceptable security, is executed with the Department of Water Supply for the actual development of a proven water source and its water transmission and distribution system within

one year from the official date of compliance with condition A (1); provided that a one-year extension to the one-year time limit may be granted by the Planning Director with reasonable and sufficient justification; or (3) the Department of Water Supply issues a water commitment for the proposed development;

- (B) no subdivision or development of any portion of the land shall occur unless and until condition A has been complied with;
- (C) the Planning Director shall be mandated to initiate action for the repeal of this ordinance if conditions A or B have not been complied with;
- (D) the petitioner, its assigns or successors, shall be responsible for complying with all conditions of approval;
- (E) the zoning for the 49± acres designated by the State Land Use Commission as its second zoning increment shall not become effective until that land is certified by that commission to be within the Urban District;
- (F) the RS zoned area shall be developed in two increments. The first increment shall consist of a maximum of 59.5± contiguous acres, and the second, the remaining area. The effective date of zoning for the second increment shall be after development has occurred in the first increment, as determined by the Planning Director. "Development" means the applicant has completed the on-site and off-site improvements within the first increment of the RS zoned area and has dedicated the roadway to the County;

- (G) subdivision plans for the first increment of the RS zoned area shall be submitted within one year from the effective date of the zoning. Final subdivision approval shall be secured within two years from the effective date of this amendment;
- (H) the RM zoned area shall be developed in two increments. The first increments shall consist of a maximum of 42 acres of the Multiple Family Residential zoned land and the second increment, the remaining area. The effective date of zoning for the second increment shall be after the applicant has completed the on-site and off-site improvements of the first increment of the RM zoned area and has dedicated the improvements to the County;
- (I) plans for the development within the first increment of the RM zoned area shall be submitted to the Planning Department and final plan approval secured within [two] five years from the effective date of this amendment. Construction shall commence within one year from the date of receipt of final plan approval and be completed within three years thereafter;
- (J) 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;
- (K) housing opportunities for Hawaii residents shall be provided in accordance with the condition imposed by the State Land Use Commission. The number of units and manner in which they are to be provided shall meet with the approval of the

Hawaii County Housing Agency;

- (L) improvements to the intersections with Kuakini Highway and the Kuakini Highway Extension shall be constructed meeting with the approval of the State Department of Transportation, Highways Division. The intersection improvements shall be constructed concurrently with the development of the first increment of the RS or RM zoned areas, whichever occurs first;
- (M) no direct access shall be provided for the lots within the RS zoned area from the mauka-makai collector road;
- (N) the roadways and stubout within the RM zoned area shall be constructed to dedicable standards with curbs, gutters, and sidewalks meeting with the approval of the Department of Public Works and shall be dedicated to the County of Hawaii upon completion. Where a roadway crosses a zone line or if a zone line should divide a roadway, the curbs, gutters, and sidewalks shall be provided for the entire right-of-the-way and shall continue to the nearest intersection in order to avoid telescoping and to provide consistent improvement;
- (O) at a minimum, roadways and stubouts within the RS zoned area shall be provided with paved shoulders and paved swales meeting with the approval of the Department of Public Works and shall be dedicated to the County of Hawaii upon completion;
- (P) the method of sewage disposal shall meet with the approval of the appropriate governmental agencies;

- (Q) a drainage master plan shall be submitted to the Department of Public Works for review and approval prior to issuance of any subdivision or plan approvals. The plan shall include, as a minimum, hydrological and hydraulic calculations for all components of the drainage system, a construction timetable for all elements of the system, and an analysis of downstream impacts. Further, mitigating measures as approved by the Department of Public Works shall be taken to eliminate any downstream impacts;
- (R) an intensive archaeological survey shall be conducted for the entire property and a report shall be submitted to the Planning Department prior to issuance of any subdivision or plan approvals;
- (S) should any unanticipated archaeological sites be found during land preparation activities, work shall immediately stop and the Planning Department notified. Work shall not resume in the affected area until clearance is given by the Planning Department;
- (T) prior to the Final Approval of the second increment, the applicant, its successors or assigns shall pay for any additional real property taxes owed for the new residential assessed value of the subject property which was previously taxed at the agricultural rate; and
- (U) 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 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:

B. Lathrop-Todd (B.C)
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: June 18, 1997

Date of 1st Reading: June 18, 1997

Date of 2nd Reading: July 2, 1997

Effective Date: July 14, 1997

REFERENCE: Comm. 328

APPROVED AS TO FORM AND LEGALITY:

Patricia K. O'Neal

DEPUTY

CORPORATION COUNSEL

DATE: JUL - 8 1997

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

RECEIVED

'97 JUL 15 AM 8 45

Introduced By: Bobby Jean Leithead-Todd (B/R)
 Date Introduced: June 18, 1997
 First Reading: June 18, 1997
 Published: N/A

REMARKS:

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Leithead-Todd	X			
Ray	X			
Reynolds	X			
Santangelo	X			
Smith	X			
Tyler	X			
Yagong	X			
	9	0	0	0

Second Reading: July 2, 1997
 To Mayor: July 7, 1997
 Returned: July 15, 1997
 Effective: July 14, 1997
 Published: July 22, 1997

REMARKS:

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Leithead-Todd	X			
Ray	X			
Reynolds			X	
Santangelo	X			
Smith	X			
Tyler	X			
Yagong	X			
	8	0	1	0

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

**APPROVED AS TO
FORM AND LEGALITY:**

Patricia K. O'Keefe
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date JUL - 8 1997

Approved/Disapproved this 14 day
 of July, 1997

Harold G. Remder
 MAYOR, COUNTY OF HAWAII

James A. ...
 COUNCIL CHAIRMAN

Donald ...
 COUNTY CLERK

Bill No.: 93
 Reference: C-328/PC-58
 Ord. No.: 97 99