

COUNTY OF HAWAII  STATE OF HAWAII

BILL NO. 90
(Draft 3)

ORDINANCE NO. 99 88

AN ORDINANCE AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-5a) TO SINGLE FAMILY RESIDENTIAL (RS-20) AT KALAOA 4TH, NORTH KONA, HAWAII, COVERED BY TAX MAP KEY 7-3-5:89.

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

SECTION 1. Section 25-8-3, Article 8, 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-20):

Beginning at the Northwesterly corner of this parcel of land, being also the Southwesterly corner of Lot B-1 and being a point on the Easterly side of 'Ili'ili Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "MOANUIAHEA" being 7,067.06 feet South and 9,555.54 feet West and running by azimuths measured clockwise from True South:

1. 276° 38' 46" 1,184.21 feet along Lot B-1 and Parcel A and along the remainder of Grant 1607 to Nawahie to a point;
2. 268° 17' 40.61 feet along Parcel A and along the remainder of Grant 1607 to Nawahie to a point;
3. 6° 46' 295.24 feet along the Westerly side of the Hawaii Belt Road (F.A.P. No. F-10(5)) to a point;
4. 96° 01' 594.00 feet along middle of stonewall, along Lots 38, 37, 32, and 31 of Kona Palisade, Unit 1 (File Plan 1061) and along Grant 2972 to Kaapau and Kama to a point;

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|----|--------------|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 5. | 102° 43' 30" | 589.00 | feet along middle of stonewall, along Lots 31, 26, 25, 24, and 18 of Kona Palisade, Unit 1 (File Plan 1061) and along Grant 2972 to Kaapau and Kama to a point; |
| 6. | 99° 59' | 44.94 | feet along middle of stonewall, along Lot 18 of Kona Palisade, Unit 1 (File Plan 1061) and along Grant 2972 to Kaapau and Kama to a point; |
| 7. | 186° 50' | 230.87 | feet along the Easterly side of Ili'ili Street to the point of beginning and containing an area of 7.790 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. The required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety (90) days from the effective date of this ordinance.
- C. Final Subdivision Approval of the proposed subdivision within the subject property shall be secured from the Planning Director.
- D. Roadway and access to all lots within the proposed subdivision shall meet with the approval of the Department of Public Works. Improvements within the proposed subdivision shall include underground utilities, provided that the existing power pole(s) on the subject site may continue to be used. The subdivision shall also include a 10-foot wide landscaped buffer extending the entire length of the south property line.

- E. Drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works in conjunction with 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 covenant(s) to be recorded with the Bureau of Conveyances shall be submitted to the Planning Director for review and approval prior to the issuance of Final Subdivision 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 for any portion of the subject property. A copy of the recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.

- G. 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 Department of Land and Natural Resources-Historic Preservation Division (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 potential regional impacts of the subject project with respect to roads, parks and recreation, fire, police and solid waste disposal facilities. 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, in a form of cash, land, facilities or any combination thereof, acceptable to the director in consultation with the affected agencies, shall be determined by the County Council. The fair share contribution shall have a maximum combined value of **\$7,239.16 per single-family residential unit**. Based upon the applicant's representation of intent to develop up to twelve (12) residential units, the indicated total of fair share contribution is **\$86,869.92** for single-family residential units. 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 H. The fair share contribution shall be allocated as follows:

1. **\$3,490.85** per single-family residential unit for an indicated total of **\$41,890.20** to the County to support park and recreational improvements and facilities;
2. **\$168.40** per single-family residential unit for an indicated total of **\$2,020.80** to the County to support police facilities;
3. **\$332.61** per single-family residential unit for an indicated total of **\$3,991.32** to the County to support fire facilities;
4. **\$145.62** per single-family residential unit for an indicated total of **\$1,747.44** to the County to support solid waste facilities; and
5. **\$3,101.68** per single-family residential unit for an indicated total of **\$37,220.16** 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 providing and constructing the improvements required in Condition E shall be credited

against the sum specified in Condition H (5) for 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 review and approval of the director, upon consultation with the appropriate agencies.

Upon approval of the fair share contributions or in lieu contributions by the director, the director shall submit a final report to the Council for its information that identifies the specific approved fair share and/or in lieu contributions, as allocated, and further implementation requirements

- I. The applicant shall comply with all applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed subdivision within the subject property.
- J. 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 Fees Ordinance.
- 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 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 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 subject 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: July 8, 1999
 Date of 1st Reading: July 8, 1999
 Date of 2nd Reading: July 28, 1999
 Effective Date: August 12, 1999
 REFERENCE: Comm. 326.002

APPROVED AS TO FORM AND LEGALITY



CORPORATION COUNSEL

DATED: _____

OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

(DRAFT 3) RECEIVED

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: July 8, 1999
 First Reading: July 8, 1999
 Published: N/A

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
*99 AUG 12 PM 8:48 Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson	X			
Leithead-Todd	X			
Pisicchio	X			
Smith	X			
Tyler	X			
Yagong	X			
	9	0	0	0

Second Reading: July 28, 1999
 To Mayor: July 30, 1999
 Returned: August 12, 1999
 Effective: August 12, 1999
 Published: August 23, 1999

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson		X		
Leithead-Todd			X	
Pisicchio		X		
Smith			X	
Tyler	X			
Yagong	X			
	5	2	2	0

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

APPROVED AS TO FORM AND LEGALITY:

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

Date AUG 3 1999

James A. ...
 COUNCIL CHAIRMAN
...
 COUNTY CLERK

Approved/Disapproved this 12 day
 of August, 1999

Stephen Yamamoto
 MAYOR, COUNTY OF HAWAII

Bill No.: 90 (Draft 3)
 Reference: C-326/PC-35
 Ord. No.: 99 88