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OFFICE OF THE COUNTY CLERK

PLANNING DEPARTMENT
COUNTY OF HAWAII
HAWAII COUNTY BUILDING
COUNTY OF HAWAII
HILO, HAWAII 96720

April 26, 2005

Refer: Bill 367
(Draft 2)
Comm. 176

To: Mayor

Re: An Ordinance amending Section 25-8-3 (North Kona Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code, by changing the District Classification from Agricultural (A-1a) and Resort-Hotel (V-1.25) to Multiple Family Residential (RM-2.5) at Auhaueae 1st, North Kona, Hawai'i, Covered by Tax Map Key 7-5-9:67 and Portion of 54 (Applicant: Kona Hale Alii, LLC) (Area: Parcel A - approximately 169,762 square feet; Parcel B - approximately 103,751 square feet; Total: Approximately 6.2 acres).

The following is the action of the Hawai'i County Council adopted at its meeting held April 20, 2005:

PC-124 was approved and adopted.
(Bill 64, **Draft 4**, passed first reading)

COUNTY CLERK

Att.

xc: /Planning Director
Planning Commission

069717

REPORT OF THE
COMMITTEE ON PLANNING

DATE: November 23, 2004
PLACE: Councilroom
TIME: 1:40 p.m.

RE: Communication No. 848/Bill No. 367

Chair and Members
Hawai'i County Council
Hilo, Hawai'i 96720

Your Committee on Planning, to which was referred Communication No. 848 and Bill No. 367, transmitted by Mayor Harry Kim, dated October 19, 2004, regarding a Change of Zone request application by Kona Hale Alii, LLC, at Auhaueae 1st North Kona, Hawai'i, TMK: 7-5-9:portion of 54 & 67, reports as follows:

Bill No. 367 seeks to amend Section 25-8-3 (North Kona Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawaii County Code, by changing the District Classification for approximately 6.2 acres of land from an Agricultural 1-acre (A-1a) and Resort-Hotel 1,250 square foot (V-1.25) to Multiple-Family Residential 2,500 square foot (RM-2.5).

Communication No. 848 reports the Hawai'i County Planning Commission, as required by the Hawai'i County Charter, Chapter 4, Section 6-4.3(C), considered the above request on October 1, 2004. At this meeting, the Commission concurred with the Planning Director's favorable recommendation for your approval of this matter. Communication No. 848, in synopsis, also reports the Planning Director's findings and recommendations as the following:

1. The applicant, Kona Hale Alii, LLC, is requesting a Change of Zone for approximately 6.2 acres of land identified as TMK: 7-5-9 portion 54 & 67 from an Agricultural 1-acre (A-1a) and Resort-Hotel 1,250 square foot (V-1.25) to Multiple-Family Residential 2,500 square foot (RM-2.5). The applicant is the owner of the property. Map Exhibit A further delineates the parcel.
2. The applicant intends to construct ninety-two 2 and 3 bedroom condominiums and twenty-three four-plex buildings within 85 structures. The maximum height proposed for these structure is two stories. The estimated cost of the project is \$20,000,000. This request is different that the original plan to develop the parcel, which proposed an 80-unit condominium approximately four stories in height.
3. The property is located on the south side of Hualalai Road at Hienaloli 6th and Auhaueae 1st in North Kona, Hawaii.
4. Access to the site is primarily provided from Hualalai Road, a County Roadway. Two accesses from this roadway are proposed for this project. One access will be gated and serve as an emergency road only.
5. The subject parcel is also in the Kailua Village Special District. The applicant reports that, accordingly, the application will be submitted for review by the Kailua Village Design Commission.
6. All utilities and services are or as part of this project will made available to the property.
7. The approval of the Change of Zone request from an Agricultural 1-acre (A-1a) and Resort-Hotel 1,250 square foot (V-1.25) to Multiple-Family Residential 2,500 square foot (RM-2.5) will result in an appropriate land use pattern that will further benefit the public based on the following:

- The request is supportive of the Land Use Elements of the Hawai'i County General Plan. The General Plan LUPAG Map designation for the area is Medium Density Urban. The request and proposed use conforms to this designation as well as the projected need of urban growth for this area.
 - The project, as proposed, will conform to the Housing Element of the Hawai'i County General Plan by providing additional and affordable housing alternatives to County residents.
 - The Master Plan for Kailua-Kona, adopted by Council Resolution in 1996, recommends that Commercial/Residential mixed uses be developed for this area. The proposed project conforms to this concept by providing residential development in the Kona Region.
 - The State of Hawai'i ALISH Map identifies the land for this project as "unclassified". The Land Use Study Bureau's Overall Soil Rating identify the soil as "E" or "Very Poor". The subject property is not currently used for agriculture.
 - The approval of the Change of Zone Request is not contrary to Chapter 205A, Hawai'i Revised Statutes. The property is not situated within the Special Management Area. It is located approximately 1/4 mile away from the coastline.
 - The Flood Insurance Rate Map (FIRM) identifies a majority of parcel as "X" or outside the 500-year flood plain.
 - Dr. Paul Rosendahl, Ph.D, performed an Archeological Reconnaissance Survey on the parcel. Rechtman Consulting, LLC, completed an update of the survey in 2004. The update confirmed several sites for preservation. The applicant will be required to complete management and a preservation plan for identified sites in the areas will be required.
8. Requisite of the Planning Director's favorable recommendation for the Change of Zone request are approximately twenty-two conditions contained in Bill No. 367 that outline specific requirements for the proposed project.

At today's meeting, Chris Yuen, Director, Planning Department, and Sidney Fuke and Robert Saunders, representative of the applicant, provided this Committee with background information about the origins and purpose of Bill No. 367.

All three explained that the proposed project is a substantial improvement over the previous submittals, specifically in terms of size. Mr. Fuke also explained that the bottom property, which is not a part of this project, may contain additional archeological sites. As a result, it would be subdivided out of the project site.

During discussion, members of this Committee agreed that the proposal was an improvement but expressed concern over protection of culturally significant archeological sites. This matter was temporarily tabled in Committee to allow the Planning Department and the applicant time to draft an acceptable condition to address this concern.

Post the tabling action, members of this Committee voted to amend Bill No. 367 with the following:

1. Condition J. "...A copy of the approved Final Archaeological Preservation and Burial Treatment Plan shall be submitted to the Planning Director for its files prior to submitting plans for Final Plan Approval review or prior to the issuance of any land alteration permits, whichever occurs first. ~~[The Preservation Plan shall include the portion of 7-5-9:54 that remains in the A-1a zone.]~~ Appropriate interim preservation buffers and measures acceptable to the Planning Director shall be installed between any historic sites in the zoned areas before any land disturbance occurs on the property. A separate Preservation Plan for that portion of TMK: 7-5-9:54 that is zoned A-1a shall be submitted to SHPD prior to any mechanical disturbance or issuance of any land disturbance permit of that area."
2. New Condition K. "Prior to submittal of plans for a building permit or within 6 months of the effective date of this ordinance, whichever is sooner, the applicant or its successors and assigns, shall submit a proposed covenant to be recorded with the State of Hawaii Bureau of Conveyances to the Planning Director for review and approval. A copy of the recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances. Said restrictive covenant, recorded against TMK: 7-5-09: 54 that is zoned A-1a, shall acknowledge that the applicant or its successors or assigns has consented to a County-initiated rezoning of the A-1a zoned area into the Open district and the prohibition of any development or improvement of that area in such a way as to interfere with or negatively affect the archaeological and historic features of such area, as determined by the State Historic Preservation Office. Furthermore, no mechanical disturbance or land disturbance permit for the parcel shall occur or be issued until the covenant has been duly recorded."
3. Condition M (Condition N, Draft 2). The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements. ~~[The applicant(s) shall comply with all applicable laws, rules, regulations and requirements of affected agencies for approval of the proposed development within the subject property].~~
4. Condition N. (Condition O, Draft 2) Standard Council In lieu Language added.
5. Conditions re-alphabetized as necessary.

Upon adoption of the amended conditions referenced above, your Committee concurs with the Planning Commission and the Planning Director's favorable recommendation for approval of this rezoning request.

Communication 848

Bill 367

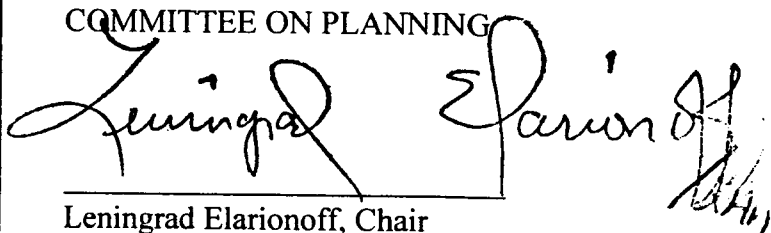
Page 4

Your Committee on Planning is in accord with the intent and purpose of Bill No. 367, as amended to Draft 2, and recommends it pass first reading.

Ctd

	AYES	NOES	A&E	EX
ARAKAKI	X			
CHUNG			X	
ELARIONOFF	X			
HOLSCHUH	X			
JACOBSON	X			
REYNOLDS			X	
SAFARIK			X	
TULANG	X			
TYLER	X			

COMMITTEE ON PLANNING


Leningrad Elarionoff, Chair

PC REPORT NO. 124

ADOPTED: _____

Pete Hoffmann
Councilmember
District 9 - North and South Kohala

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HAWAI'I COUNTY COUNCIL

County of Hawai'i

April 19, 2005

TO: Stacy K. Higa, Chair, and Council Members

FROM: Pete Hoffman, Co-Chairman
Committee on Planning

K. Angel Pilago, Co-Chairman
Committee on Planning

RE: Proposed Bill No. 367, Draft 3 - Kona Hale Ali'i

Attached for your favorable consideration is proposed Bill 367, Draft 3, with the following amendments per discussion with Sidney Fuke, Planning Consultant:

"1. Amend Condition J.

- J. An Archaeological Preservation and Burial Treatment Plan shall be submitted for the review and approval [~~for the review and approval~~] of the Planning Director, in consultation with the Department of Land and Natural Resources – State Historic Preservation Division (DLNR-SHPD). The Preservation Plan shall incorporate appropriate mitigation measures resulting from the impact of any fence and/or wall constructed along the boundaries of the subject site subject to the archaeological and cultural features of the adjoining properties identified by TMK: 7-5-9:55 and portion of 54. Proposed mitigation treatment for the burial sites within the subject property shall be approved by the SHPD's Hawai'i Island Burial Council before detailed mitigation plans are finalized for these sites. A copy of the approved Final Archaeological Preservation and Burial Treatment Plan shall be submitted to the Planning Director for its files prior to submitting plans for Final Plan Approval review or prior to the issuance of any land alteration permits, whichever occurs first. Appropriate interim preservation buffers and measures acceptable to the Planning Director shall be installed between any historic sites in the zoned areas before any land disturbance occurs on the property. A separate Preservation Plan for that portion of TMK: 7-5-9:54 that is zoned A-1a shall be submitted to SHPD prior to any mechanical disturbance or issuance of any land disturbance permit of that area.

< Bill 367, Dn. 3 >

Comm. No. 100.2
Ref. To: Presented Council
Ref. Date: APR 20 2005

2. Add new Condition L.

L. The applicant shall identify an entity that would be responsible for the management and care of the archaeological/cultural features on that portion of TMK: 7-5-09:54 that is not covered by this ordinance. Prior to its designation, the applicant shall solicit the input of the native Hawaiian community and the County Council. Within 60 days of the identification of this entity, this area, with the concurrence of the County Council, shall be conveyed via lease or fee to the identified entity for \$1.00.

3. Add new Condition M.

M. The applicant shall prepare and submit a landscaping plan for the subject site in conjunction with the Plan Approval process. Said plan shall reflect, where feasible, the use of indigenous and water-conserving plants and comply with the guidelines outlined in Planning Department Rule No. 17 relating to landscaping.

4. Re-letter existing Condition L to N.

5. Re-letter Condition M to O and amend

~~[M.]~~ O. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicant shall comply with the requirements of Chapter 11, Article 1, Hawai'i County Code relating to Affordable Housing Policy. This requirement ~~[shall be approved by the County Housing Agency prior to receipt of Final Plan Approval]~~ shall apply to, as represented by the applicant, 40% of all residential units in excess of the entitled eighty (80) units on TMK: 7-5-9:67.

6. Add New Condition P

P. The project shall be developed in a minimum of two phases. The first phase shall consist of no more than forty-five (45) units, which shall include all of the required affordable housing units approved in accordance with Condition O above. Final occupancy permit for the first phase shall be issued no earlier than June 30, 2006, which is the scheduled completion of the on-going Kuakini Highway improvements. Occupancy permit for the remaining units shall be issued only upon completion of the aforementioned Highway improvements.

7. Re-letter Condition N to Q

8. Re-letter Condition O to R and amend

~~[O.]~~ R. The applicant shall make its fair share contribution to mitigate the potential regional impacts of the subject project with respect to parks and recreation, fire, police and 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 additional multiple family residential units proposed to be developed by the amounts allocated herein below for each such unit, and shall

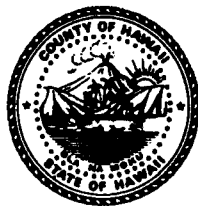
become, with the exception of the parks and recreation fees, due and payable prior to the issuance of the Certificate of Occupancy for any unit on the subject property. The park and recreation fees shall be due and payable prior to the issuance of a building permit. The fair share contribution, in a 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 \$6,206.06 per multiple-family residential unit. Based upon the applicant's representation of intent to develop a total of twelve (12) additional multiple-family residential units, the indicated total of fair share contribution is \$74,472.72 for the additional multiple-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. The fair share contribution shall be allocated as follows:

1. **\$3,061.27** per multiple family residential unit for an indicated total of **\$36,735.24** to the County or, if the County Council so agrees, directly to the entity so designated under condition L to the further the objectives of condition L and to support park, cultural, and recreational improvements and facilities;...
9. Re-letter Conditions P, Q, and R to S, T, and U.
10. Parcel "A" now correctly reads 169,792 sq. ft. instead of 169,762 sq. ft. on the attached map.

Att.

PH/KAP/scm

COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. 367
(Draft 3)

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-1a) AND RESORT-HOTEL (V-1.25) TO MULTIPLE FAMILY RESIDENTIAL (RM-2.5) AT AUHAUKEAE 1ST, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY 7-5-9:67 AND PORTION OF 54.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Section 25-8-3, Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code, is amended to change the district classification of property described hereinafter as follows:

The district classification of the following areas situated at Auhaueae 1st, North Kona, Hawai'i shall be Multiple Family Residential (RM-2.5):

PARCEL A:

Beginning at the northeast corner of this parcel of land, being also the southeast corner of Lot B and in the middle of the Great Wall of Kuakini, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAHELO", being 5,800.51 feet North and 298.26 feet West, thence running by azimuths measured clockwise from true South:

Along the remainder of R.P. 7580, L.C. Aw. 11,216, Ap. 37 to M. Kekauonohi and along the middle of the Great Wall of Kuakini for the next eight (8) courses, the direct azimuths and distances being:

1. 342° 04' 35" 68.96 feet;
2. 352° 45' 34.35 feet;
3. 344° 54' 21.23 feet;
4. 350° 34' 20.64 feet;
5. 344° 15' 31.24 feet;

- | | | | | | |
|-----|------|-----|-----|-------------|---|
| 6. | 347° | 59' | | 81.25 feet; | |
| 7. | 355° | 56' | | 32.99 feet; | |
| 8. | 352° | 13' | | 44.81 feet; | |
| 9. | 82° | 07' | 30" | 491.00 feet | along Lot 3-A, Land Grant Application 1874 (Map 5); |
| 10. | 168° | 35' | | 180.00 feet | along the remainder of R.P. 7580, L.C. Aw. 11,216, Ap. 37 to M. Kekauohoni (remainder of Lot 1); |
| 11. | 87° | 59' | | 47.40 feet | along same; |
| 12. | 164° | 20' | | 138.25 feet | along same; |
| 13. | 260° | 50' | 40" | 545.38 feet | along Grant 12,013 to William J. Hooper, Jr. (Lot B) to the point of beginning and containing an area of 169,792 Square Feet. |

PARCEL B:

Beginning at the southeast corner of this parcel of land, being also the northeast corner of Lot 1 and in the middle of the Great Wall of Kuakini, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAHELO", being 5,800.51 feet North and 298.26 feet West, thence running by azimuths measured clockwise from true South:

- | | | | | | |
|----|------|-----|-----|-------------|---|
| 1. | 80° | 50' | 40" | 612.61 feet | along R. P. 7580, L.C. Aw. 11,216, Ap. 37 to M. Kekauonohi (Lot 1); |
| 2. | 159° | 09' | 43" | 252.72 feet | along the remainder of Grant 12,013 to William J. Hooper, Jr. (Lot A); |
| 3. | 249° | 09' | 40" | 50.24 feet | along L. C. Aw. 8524-B, Part 3 to Peke (Lot 4); |
| 4. | 314° | 31' | 40" | 46.00 feet | along Hualalai Road; |
| 5. | 303° | 01' | 40" | 50.00 feet | along same; |
| 6. | 282° | 31' | 40" | 50.00 feet | along same; |
| 7. | 270° | 01' | 40" | 200.00 feet | along same; |
| 8. | 252° | 02' | 40" | 270.25 feet | along same; |
| 9. | 339° | 39' | 40" | 149.55 feet | along Grant 1752 to Kawelo and along the middle of the Great Wall of Kuakini; |

10. 332° 34' 40" 32.92 feet along same to the point of beginning and containing an area of 103,751 Square Feet.

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

SECTION 2. In accordance with Section 25-2-44, Hawai'i County Code, the County Council finds the following conditions are:

- (1) Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or
 - (2) Reasonably conceived to fulfill needs directly emanating from the land use proposed with respect to:
 - (A) Protection of the public from the potentially deleterious effects of the proposed use, or
 - (B) Fulfillment of the need for public service demands created by the proposed use.
- 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. Construction of the proposed development shall be completed within five (5) years from the effective date this ordinance. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and/or proposed structures, paved driveway access and parking stalls associated with the proposed development. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements).

- D. The applicant shall realign and provide full improvements to the entire frontage along Hualalai Road consisting of, but not limited to, right-of-way and pavement widening with concrete curb, gutter and sidewalk, drainage improvements, and any relocation of utilities meeting with the approval of the Department of Public Works. Pavement transitions, streetlights, signs and markings, drainage improvements, and relocation of utilities may be required. The applicant shall construct and dedicate to the County upon request, the widened street with improvements, at no cost to the County. An approach for the commercial zoned property fronting the opposite side of Hualalai Road (TMK: 7-5-10:13) is required under Ordinance 95 118, to include turning lanes on Hualalai Road. The widened area to be dedicated to the County shall, if required by DPW, allow for realignment and improvements required by Ordinance 95 118 or successor ordinances. The required widening area shall not exceed the equivalent of a five foot width along the entire frontage, which is approximately one-half the difference between the existing right-of way width and 60 feet.
- E. As represented by the applicant, a non-gated access to Hualalai Road shall be limited to one approach and may include an additional access which shall be barricaded and used for emergency purposes only. The approaches shall conform to Chapter 22, Streets and Sidewalks, of the Hawai'i County Code. A licensed civil engineer shall evaluate the proposed active approach to the subject property for safe ingress and egress, sight distance and conflicts with the proposed turn lane and entry in TMK: 7-5-10:13. The evaluation shall be submitted for approval by the DPW prior to plan approval. If recommended, the applicant shall provide a left storage lane on Hualalai Road to the subject property prior to the issuance of a certificate of occupancy. All sight distances to the approach shall meet with the requirements of the Hawai'i Statewide Uniform Design Manual or AASHTO.
- F. Any emergency vehicular security gate shall be located in a location approved by the Department of Public Works.
- G. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. A drainage study shall be prepared and submitted to the

Department of Public Works prior to issuance of any construction permit. Recommended drainage improvements shall be constructed meeting with the approval of the Department of Public Works prior to the issuance of a certificate of occupancy.

- H. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of a Certificate of Occupancy.
- I. The applicant shall connect to the County sewer system according to the requirements of the Department of Environmental Management.
- J. An Archaeological Preservation and Burial Treatment Plan shall be submitted for the review and approval of the Planning Director, in consultation with the Department of Land and Natural Resources – State Historic Preservation Division (DLNR-SHPD). The Preservation Plan shall incorporate appropriate mitigation measures resulting from the impact of any fence and/or wall constructed along the boundaries of the subject site subject to the archaeological and cultural features of the adjoining properties identified by TMK: 7-5-9:55 and portion of 54. Proposed mitigation treatment for the burial sites within the subject property shall be approved by the SHPD's Hawai'i Island Burial Council before detailed mitigation plans are finalized for these sites. A copy of the approved Final Archaeological Preservation and Burial Treatment Plan shall be submitted to the Planning Director for its files prior to submitting plans for Final Plan Approval review or prior to the issuance of any land alteration permits, whichever occurs first. Appropriate interim preservation buffers and measures acceptable to the Planning Director shall be installed between any historic sites in the zoned areas before any land disturbance occurs on the property. A separate Preservation Plan for that portion of TMK: 7-5-9:54 that is zoned A-1a shall be submitted to SHPD prior to any mechanical disturbance or issuance of any land disturbance permit of that area.
- K. Prior to submittal of plans for a building permit or within 6 months of the effective date of this ordinance, whichever is sooner, the applicant or its successors and assigns, shall submit a proposed covenant to be recorded with the State of Hawai'i Bureau of Conveyances to the Planning Director for review and approval. A copy of the recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances. Said

restrictive covenant, recorded against TMK: 7-5-09: 54 that is zoned A-1a, shall acknowledge that the applicant or its successors or assigns has consented to a County-initiated rezoning of the A-1a zoned area into the Open district and the prohibition of any development or improvement of that area in such a way as to interfere with or negatively affect the archaeological and historic features of such area, as determined by the State Historic Preservation Office. Furthermore, no mechanical disturbance or land disturbance permit for the parcel shall occur or be issued until the covenant has been duly recorded.

- L. The applicant shall identify an entity that would be responsible for the management and care of the archaeological/cultural features on that portion of TMK: 7-5-09:54 that is not covered by this ordinance. Prior to its designation, the applicant shall solicit the input of the native Hawaiian community and the County Council. Within 60 days of the identification of this entity, this area, with the concurrence of the County Council, shall be conveyed via lease or fee to the identified entity for \$1.00.
- M. The applicant shall prepare and submit a landscaping plan for the subject site in conjunction with the Plan Approval process. Said plan shall reflect, where feasible, the use of indigenous and water-conserving plants and comply with the guidelines outlined in Planning Department Rule No. 17 relating to landscaping.
- N. 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 – State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-SHPD when it finds that sufficient mitigative measures have been taken.
- O. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicant shall comply with the requirements of Chapter 11, Article 1, Hawai'i County Code relating to Affordable Housing Policy. This requirement shall apply

to, as represented by the applicant, 40% of all residential units in excess of the entitled eighty (80) units on TMK: 7-5-9:67.

- P. The project shall be developed in a minimum of two phases. The first phase shall consist of no more than forty-five (45) units, which shall include all of the required affordable housing units approved in accordance with Condition O above. Final occupancy permit for the first phase shall be issued no earlier than June 30, 2006, which is the scheduled completion of the on-going Kuakini Highway improvements. Occupancy permit for the remaining units shall be issued only upon completion of the aforementioned Highway improvements.
- Q. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- R. The applicant shall make its fair share contribution to mitigate the potential regional impacts of the subject project with respect to parks and recreation, fire, police and 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 additional multiple family residential units proposed to be developed by the amounts allocated herein below for each such unit, and shall become, with the exception of the parks and recreation fees, due and payable prior to the issuance of the Certificate of Occupancy for any unit on the subject property. The parks and recreation fees shall be due and payable prior to the issuance of a building permit. 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 \$6,206.06 per multiple-family residential unit. Based upon the applicant's representation of intent to develop a total of twelve (12) additional multiple-family residential units, the indicated total of fair share contribution is \$74,472.72 for the additional multiple-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. The fair share contribution shall be allocated as follows:

1. **\$3,061.27** per multiple family residential unit for an indicated total of **\$36,735.24** to the County or, if the County Council so agrees, directly to the entity so designated under Condition L to further the objectives of Condition L and to support park, cultural, and recreational improvements and facilities;
2. **\$96.75** per multiple family residential for an indicated total of **\$1,161.00** the County to support police facilities;
3. **\$297.62** per multiple family residential unit for an indicated total of **\$3,571.44** to the County to support fire facilities;
4. **\$132.65** per multiple family residential unit for an indicated total of **\$1,591.80** to the County to support solid waste facilities;
5. **\$2,617.77** per multiple family residential unit for an indicated total of **\$31,413.24** 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 such facilities related to park, fire, police and solid waste disposal facilities subject to the review and recommendation of the Planning Director, upon consultation with the appropriate agencies and approval of the Hawai'i County Council.

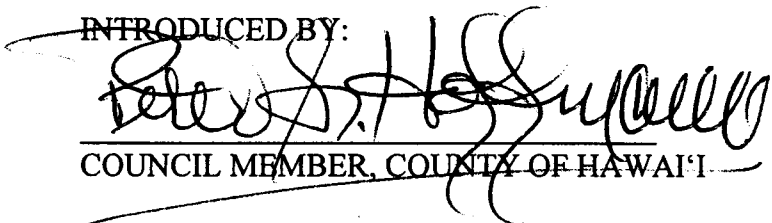
- S. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- T. An initial extension of time for the performance 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).
- U. 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:

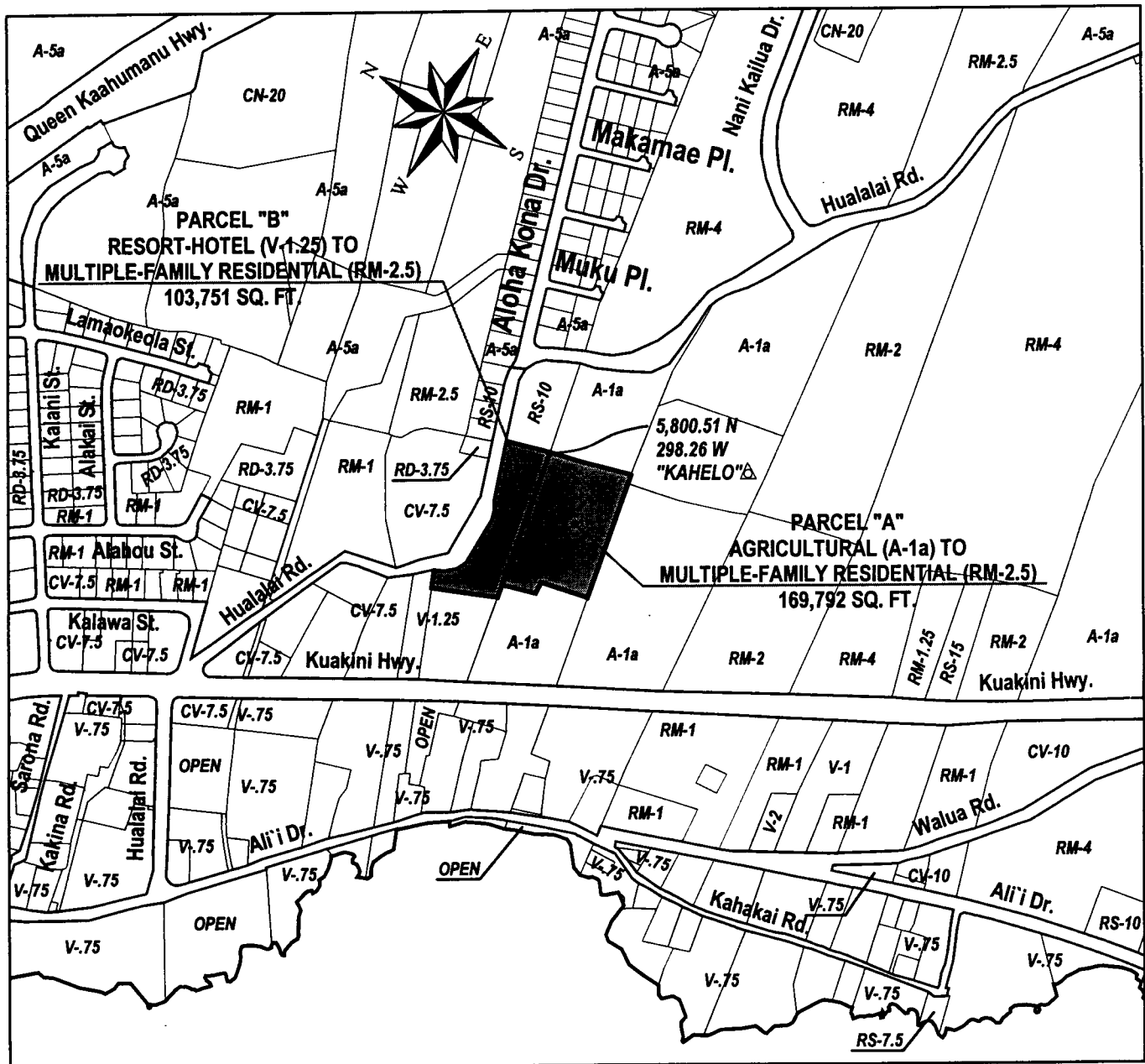

COUNCIL MEMBER, COUNTY OF HAWAII

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

_____, Hawai'i
Date of Introduction:
Date of 1st Reading:
Date of 2nd Reading:
Effective Date:

REFERENCE: Comm. 100.2



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP)
AND 25-8-5 (KAILUA URBAN ZONE MAP) ARTICLE 8,
CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE,
BY CHANGING THE DISTRICT CLASSIFICATION
FROM RESORT-HOTEL (V-1.25) AND AGRICULTURAL (A-1a)
TO MULTIPLE-FAMILY RESIDENTIAL (RM-2.5)
AT AUHAUKEAE 1st, NORTH KONA, HAWAII

PREPARED BY: PLANNING DEPARTMENT
COUNTY OF HAWAII



SidneyFuke, Planning Consultant

100 Pauahi Street, Suite 212 • Hilo, Hawaii 96720
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2005 APR 8 PM 2:12

April 8, 2005

COURT HOUSE
COUNTY OF HAWAII

Honorable Pete Hoffmann, Co-Chair
Honorable K. Angel Pilago, Co-Chair
Planning Committee
HAWAII COUNTY COUNCIL
25 Aupuni Street
Hilo, HI 96720

Dear Honorable Hoffmann and Pilago:

Subject: Bill No. 367, Draft 2 – Kona Hale Alii

Thank you very much for taking time out of your busy schedule to meet with me regarding the subject matter. Your input on the issues of cultural importance of this area, infrastructure, and affordable housing was most constructive and invaluable.

As explained, the applicant wants to do a project that is visually more in keeping with the character of this area than the entitled 80-unit project. To that end, if approved, the current proposal will result in 12 additional units for a total of 92 units spread out over a larger land area (2.381 acres versus 6.279 acres). The net effective density would thus be reduced from 34 units/acre to 15 units/acre (with the planned open space along Kuakini Highway). Furthermore, the proposed project would reduce the height of a single, monolithic 4-5 story 45-foot structure to a series of 2-story plus a loft, 28±-foot structures.

At the same time, the applicant shares your concerns on the need to be mindful of the area's cultural history, infrastructure, and affordable housing. Accordingly, if this project were approved, the applicant is prepared to set aside the front portion of an adjoining property for preservation and help establish an overall cultural program affecting sites in this general area, as outlined in my letter of January 18, 2005 to you.

Since the 80-units are already entitled, it is the applicant's understanding that the recently-adopted affordable housing policy would apply only to the additional units. However, in light of the need of affordable housing in general and more so proximate to the Village of Kailua, the applicant is prepared to have an affordable housing program that would apply to not 20% but 40% of the additional units created by this project.

Improvements to Kuakini Highway are currently underway. In the interest of concurrency and while recognizing the pressing need for affordable housing, the applicant is prepared to develop the project in a minimum of two (2) phases. The first phase would consist of no more than forty-five (45) units and would include all of the

Comm. No. 100.1
Ref. To: Council
Ref. Date: APR 11 2005

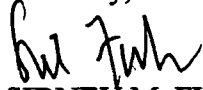
Honorable Councilman Pete Hoffmann
Honorable Angel Pilago
April 8, 2005
Page 2

required affordable housing units. Final occupancy permit for this phase would be issued no earlier than June 30, 2006, the scheduled completion of the Kuakini Highway improvements. Occupancy permit for the remaining units would be issued only upon the actual completion of the improvements.

I trust that the aforementioned adequately addresses your concerns, and we look forward to your favorable consideration of this matter. To facilitate matters, I have drafted proposed amendments to the subject bill for your consideration. Please note that this bill is now pending before the full Council for first reading.

Again, thank you very much for your time and consideration on this matter.

Sincerely,



SIDNEY M. FUKÉ
Planning Consultant

Enclosure

Copy – All Councilmembers w/ enclosure

Mr. Robert E. Saunders w/ enclosure

PROPOSED AMENDMENTS TO BILL NO. 367, Draft 2

Underscored () items to be added; bracketed [] items to be deleted.

1. Amend Condition J

“An Archaeological Preservation and Burial Treatment Plan shall be submitted for the review and approval [*for the review and approval*] of the Planning Director, in consultation with the Department of Land and Natural Resources – State Historic Preservation Division (DLNR-SHPD). The Preservation Plan shall incorporate appropriate mitigation measures resulting from the impact of any fence and/or wall constructed along the boundaries of the subject site subject to the archaeological and cultural features of the adjoining properties identified by TMK: 7-5-9: 55 and portion of 54. Proposed mitigation treatment for the burial sites within the subject property shall be approved by the SHPD’s Hawai‘i Island Burial Council before detailed mitigation plans are finalized for these sites. A copy of the approved Final Archaeological Preservation and Burial Treatment Plan shall be submitted to the Planning Director for its files prior to submitting plans for Final Plan Approval review or prior to the issuance of any land alteration permits, whichever occurs first. Appropriate interim preservation buffers and measures acceptable to

the Planning Director shall be installed between any historic sites in the zoned areas before any land disturbance occurs on the property. A separate Preservation Plan for that portion of TMK: 7-5-9: 54 that is zoned A-1a shall be to SHPD prior to any mechanical disturbance or issuance of any land disturbance permit of that area.”

2. Add new Condition L

“The applicant shall identify an entity that would be responsible for the management and care of the archaeological/cultural features on that portion of TMK: 7-5-09: 54 that is not covered by this ordinance. Prior to its designation, the applicant shall solicit the input of the native Hawaiian community and the County Council. Within 60 days of the identification of this entity, this area, with the concurrence of the County Council, shall be conveyed via lease or fee to the identified entity for \$1.00.

3. Add new Condition M

“The applicant shall prepare and submit a landscaping plan for the subject site in conjunction with the Plan Approval process. Said plan shall reflect, where feasible, the use of indigenous and water conserving plants and comply with the guidelines outlined in Planning Department Rule No. 17 relating to landscaping.”

4. Re-letter existing Condition L to N
5. Re-letter Condition M to O and amend

“To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicant shall comply with the requirements of Chapter 11, Article 1, Hawaii County Code relating to Affordable Housing Policy. This requirement shall apply to, as represented by the applicant, 40% of all residential units in excess of the entitled eighty (80) units on TMK: 7-5-9: 67 [shall be approved by the County Housing Agency prior to receipt of Final Plan Approval].”

6. Add new Condition P

“The project shall be developed in a minimum of two phases. The first phase shall consist of no more than forty-five (45) units, which shall include all of the required affordable housing units approved in accordance with Condition M above. Final occupancy permit for the first phase shall be issued no earlier than June 30, 2006, which is the scheduled completion of the on-going Kuakini Highway improvements. Occupancy permit for the remaining units shall be issued only upon completion of the aforementioned Highway improvements.”

7. Re-letter Condition N to Q
8. Re-letter Condition O to R and amend

“The applicant shall make its fair share contribution to mitigate the potential regional impacts of the subject project with respect to parks and recreation, fire, police and 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 additional multiple family residential units proposed to be developed by the amounts allocated herein below for each such unit, and shall become, with the exception of the parks and recreation fees, due and payable prior to the issuance of the Certificate of Occupancy for any unit on the subject property. The park and recreation fees shall be due and payable prior to the issuance of a building permit. 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 \$6,206.06 per multiple-family residential unit. Based upon the applicant’s representation of intent to develop a total of twelve (12) additional multiple-family residential units, the indicated total of fair share contribution is \$74,472.72 for

the additional multiple-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. The fair share contribution shall be allocated as follows:

1. \$3,061.27 per multiple family residential unit for an indicated total of \$36,735.24 to the County or, if the County Council so agrees, directly to the entity so designated under condition L to the further the objectives of condition L and to support park, cultural, and recreational improvements;”
9. Re-letter Conditions P, Q, and R to S, T, and W



SidneyFuke, Planning Consultant

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January 18, 2005

Honorable K. Angel Pilago, Co-Chair
Planning Committee
HAWAII COUNTY COUNCIL
25 Aupuni Street
Hilo, HI 96720

Dear Councilperson Pilago:

Subject: Bill No. 367, Draft 2 – Kona Hale Alii

Thank you very much for taking time out of your busy schedule to recently meet with me and others regarding the subject matter. Your input was most constructive and invaluable, and we look forward to your continued guidance on this matter.

In that regard, I would like to use this means to summarize the gist of our meeting as well as to provide you with some suggested amendments to the bill that we believe would help address the issues brought up during that meeting.

Very briefly, Kona Hale Alii, LLC (hereinafter "KHAL") can immediately begin the construction of an 80-unit condominium along Hualalai Road as described in item "b" below. However, KHAL felt that a less dense project with a different design covering the subject and a portion of an adjoining property (see item "c" below) would be more in keeping with the Kailua Village Design Plan and would be better received by the community. As such, KHAL elected to defer the start of the entitled 80-unit project to see if the community and appropriate decision-makers also share this conclusion and/or perception. If there were a consensus that results in the passage of the subject bill, KHAL would then abandon the 80-unit project and proceed with the revised scheme.

I would also like to point out that the proposed bill presently requires impact fees and compliance with the prevailing affordable housing code for the additional units. The entitled proposal does not.

As requested, please find enclosed a copy of materials we shared with you that day that graphically depicts KHAL's thoughts. These materials, plus a description of them, follow.

- a. TMK: 7-5-09. This map identifies the subject site. The proposed site is made up of parcel 67, a 2.381-acre parcel, zoned Resort (V-1.25), and a 3.898-acre portion of 54, that is zoned Agriculture (A-1a). The total area is 6.279 acres.

Comm. No. 848.5
Ref. To: Council
Ref. Date JAN 19 2005

- b. Plans of the 80-unit multi-family residential project. This project would be constructed on parcel 67 and already has the required land use entitlements (zoning, Kailua Village Design clearance, and Plan Approval). Building construction plans have been completed, and the only outstanding permit needed for this project is a building permit.

The design of this project is a single, monolithic-looking structure. It would be a 4-story, 45-foot tall structure, plus another level for basement parking.

- c. Preliminary plans for a 92-unit multi-family residential project. This project would consist of about twenty-three (23) 2-story/fourplex structures. This is the project KHAL believes would be more in keeping with the Kailua Village Design Plan and better received by the community.
- d. Design/density summary. This summary provides a thumbnail description between the entitled and proposed project. You will note that in addition to design, there is a considerable difference in the density. The entitled project has a density of 34 units/acre, while the proposed one averages (with the planned open space along Kuakini Highway) 10 units/acre.

Please also note that with its current A-1a zoning, parcel 54 is capable of supporting 6 units. Parcel 67 already allows 80 units. The entitled density of the combined area is thus 86 units. As such, the net effective density increase by this proposed development is six (6) units.
- e. Letter from Kailua Village Design Commission. In a letter, dated September 24, 2004, the Commission recommended approval of the new project.
- f. Archaeological Map. This map reflects the archaeological features of parcel 54 and the property to the south (parcel 55). It was out of deference to the significant archaeological features on the remaining portion of parcel 54 as well as the adjoining property that a number of culturally and archaeologically related conditions were recommended for consideration by the former Planning Committee of the County Council. These conditions are reflected in Bill No. 367, draft 2.

Councilman K. Angel Pilago
January 18, 2005
Page 3

During the course of our meeting, you appropriately raised archaeological and cultural issues relative to the proposed project's impact to the features on the adjoining parcel (parcel 55) and the balance of parcel 54, areas that are NOT part of the proposed rezoning action. Other related issues included having some start up funds to prepare a cultural-archaeological program for these areas, the mechanics for its implementation, and the like.

As such, I agreed to provide you with a draft of possible amendments to the bill that would help address the aforementioned issues. This draft is also enclosed for your appropriate action. Generally, these amendments, if approved, would provide for the following:

- a. Restrict that portion of the recreational impact fees to further the objectives of an archaeological/cultural program of this specific area. These funds can be provided directly to an entity, subject to the approval of the County Council.
- b. Require the contribution of this portion of the recreational impact fee prior to issuance of a building permit, as opposed to prior to issuance of an occupancy permit. This accelerates the payment by at least 12-18 months.
- c. Require that any wall and/or fencing along the boundaries of the properties affected by this rezoning take into consideration the archaeological/cultural features of the adjoining properties and be incorporated into a State Historic Preservation Division approved archaeological mitigation plan.
- d. Require that the primary landscaping material within the boundaries of the subject properties be indigenous to the area and compatible with the archaeological/cultural features of the adjoining properties.
- e. Require the applicant to identify an entity that would be responsible for managing and caring for the archaeological/cultural features on parcel 54. Prior to its designation, however, the applicant shall solicit the input of the native Hawaiian community and the County Council. That portion of parcel 54 shall be conveyed to the selected entity.

Councilman K. Angel Pilago
January 18, 2005
Page 4

I trust that the aforementioned adequately captures our discussion. If not, as we intend to continue our dialogue with you and other members of the County Council on this matter, we can continue to come forth with further suggestions.

Again, thank you very much for your time. We look forward to meeting with you again in the very near future.

Sincerely,

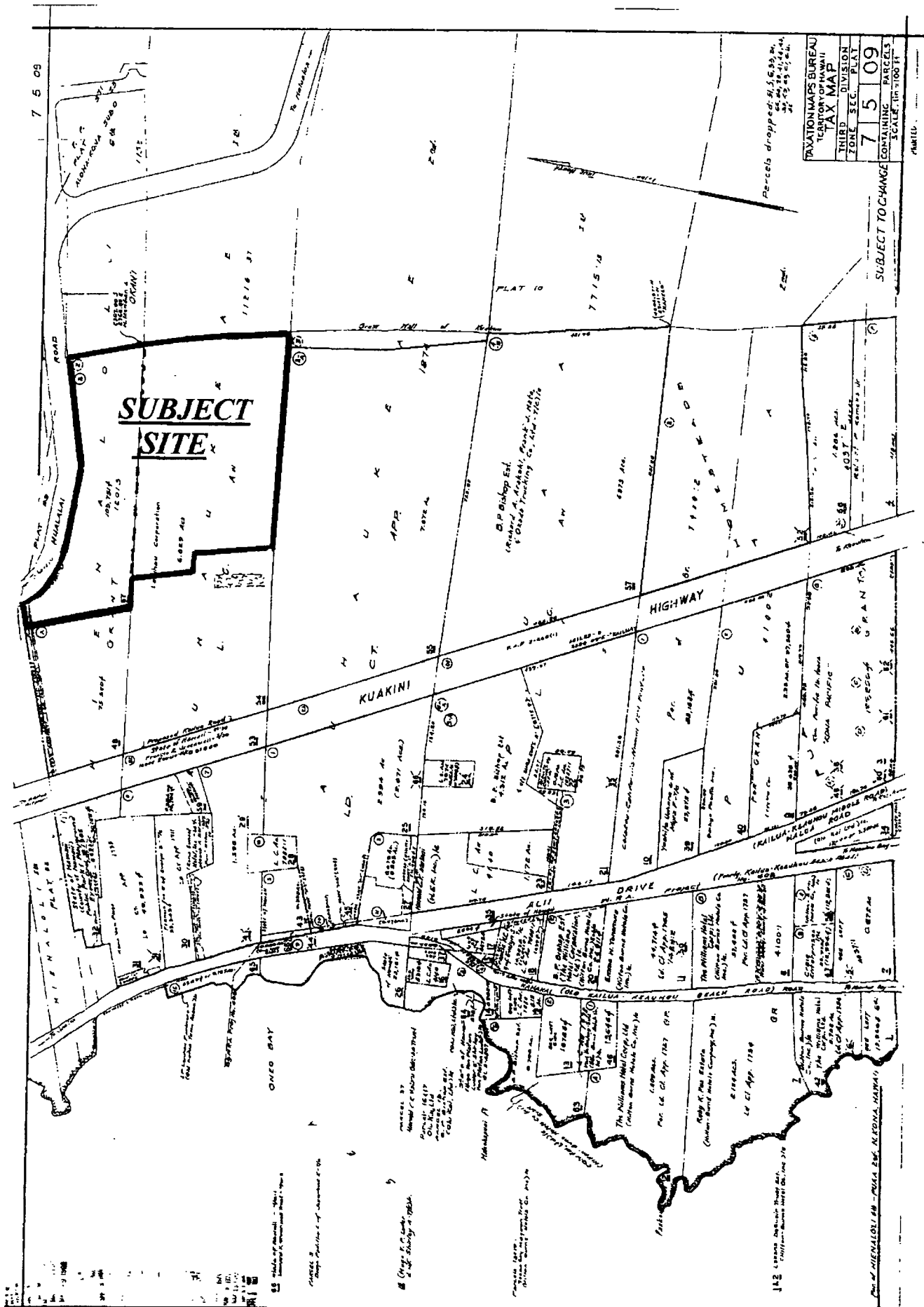


SIDNEY M. FUKÉ
Planning Consultant

Enclosures

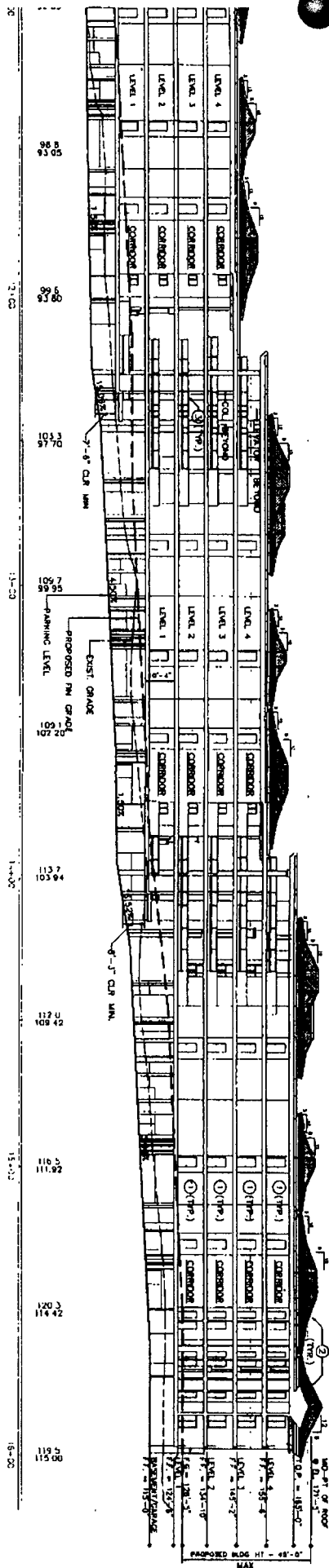
Copy – All Councilmembers w/ enclosures

Mr. Robert E. Saunders w/ enclosures



TAX MAP KEY

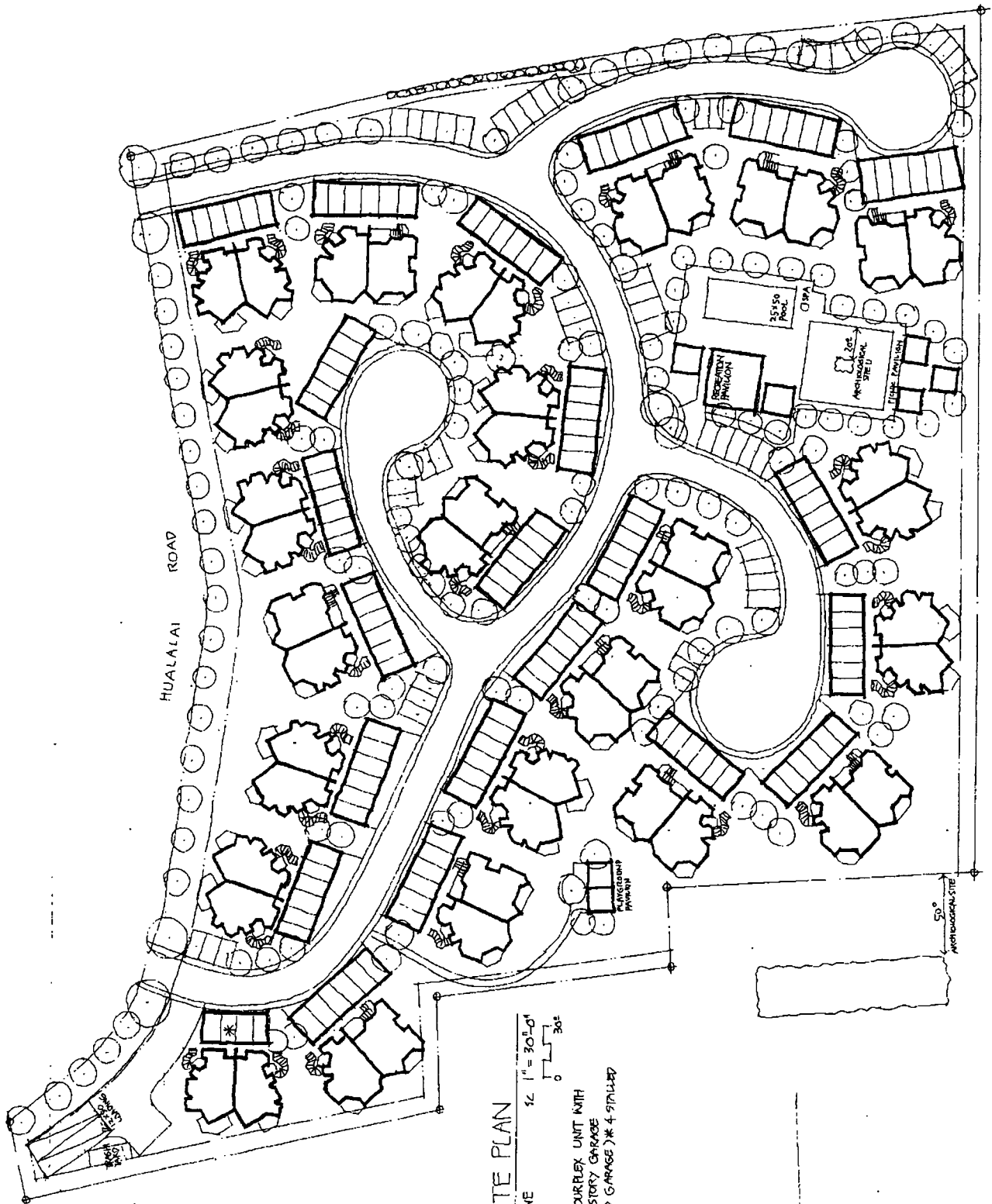
- ② STANDING SEAM METAL ROOFING
- ③ REINFORCED CONCRETE



① BUILDING SECTION THRU CORRIDOR

SCALE: 1" = 20' HORIZ.
1" = 20' VERT.





CONCEPTUAL SITE PLAN

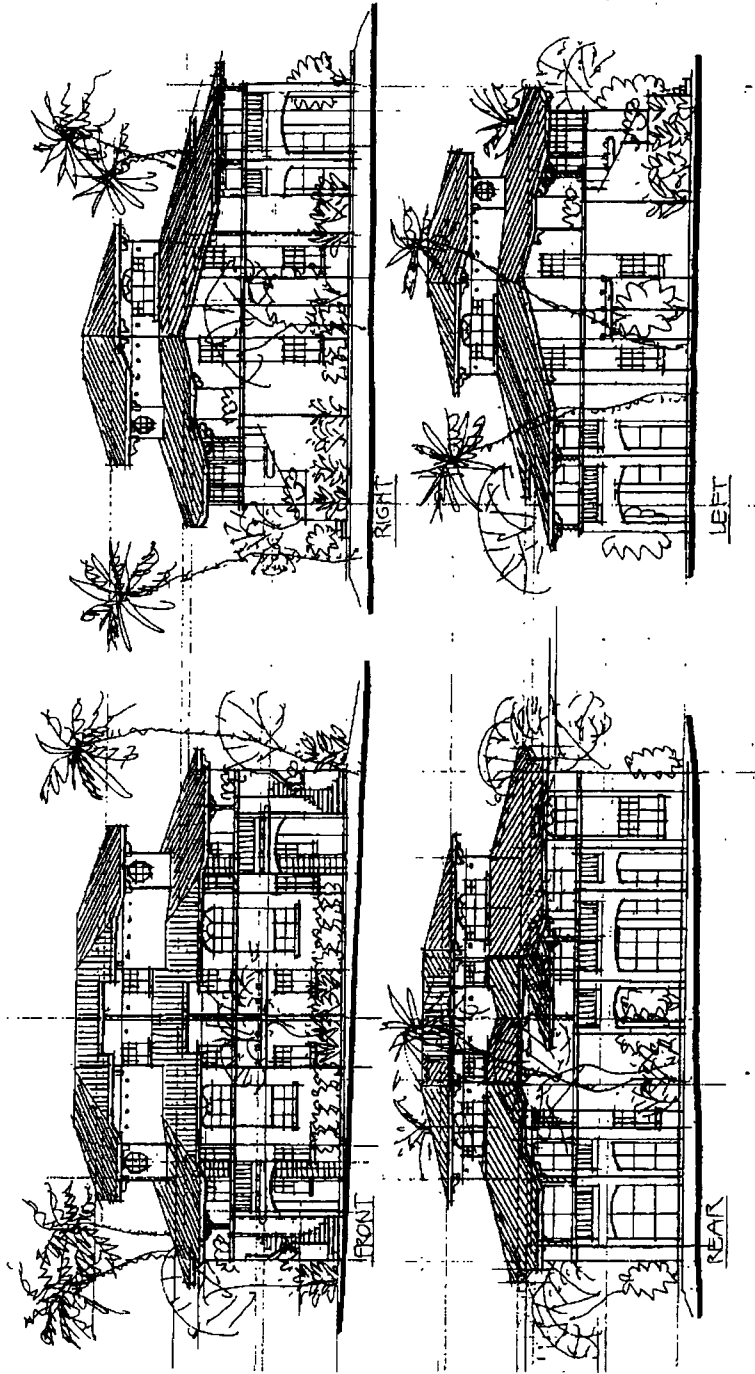
WITH ASSUMED PROPERTY LINE

1/4" = 30'-0"

23 -
2 STORY FOURPLEX UNIT WITH
FRONTAL 1 STORY GARAGE
(6 STALLED GARAGE) * 4 STALLED

92 UNITS:

PROPOSED 92-UNIT PROJECT



BUILDING TYPE III $\approx 1/16"$
FOUR-FLY DWELLING - 2 STORY

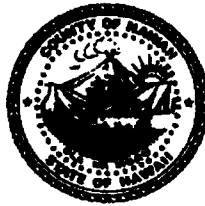
KONA HALE ALII, LLC

ENTITLED PROJECT PROPOSED PROJECT

1.	Land area	2.381 acres	6.279 acres (9.21 acres, with proposed Open zoning area)
2.	Existing Zoning Allowable density	V-1.25 80 units	A-1a 6 units (includes area to be zoned Open)
3.	Proposed Zoning Allowable density	RM-2.5 41 units	RM-2.5 and Open 67 units
4.	Total Units	80	92
5.	Average Density	1: 1,295 sf (34 units/acre)	1: 2,935 sf (15 units/acre)
6.	With Open Space (Kuakini side)	2.381 acres 1: 1,295 sf (34 units/acre)	9.21 acres 1: 4,361 sf (10 units/acre)
7.	Number of structures	1	23±
8.	Stories/Height	4 stories 45 feet	2 stories 30+ feet

DENSITY SUMMARY

Harry Kim
Mayor



Christopher J. Yuen
Director

Roy R. Takemoto
Deputy Director

County of Hawaii

PLANNING DEPARTMENT

101 Pauahi Street, Suite 3 • Hilo, Hawaii 96720-3043
(808) 961-8288 • Fax (808) 961-8742

September 24, 2004

Mr. Sidney M. Fuke
Planning Consultant
100 Pauahi Street, Suite 212
Hilo, Hawaii 96720

Dear Mr. Fuke:

Kailua Village Design Commission Meeting of September 21, 2004
Design Review of Proposed 92-unit Condominium Project
TMK: 7-5-009: 67 and por. of 54

This letter is to inform you that the Kailua Village Design Commission, at its September 21, 2004 meeting, voted to make the following recommendation to the Planning Director.

- Approval of the rezoning of the parcels from Resort V-1.25 (parcel 67) and Agriculture A-1a (por. of 54) to Multi-family Residential RM-2.5.

The consensus of the Design Commission was that it favored the consolidation and rezoning of the two parcels, since this action will result in a project with lower density and lower building bulk, as compared to the previously approved project. The Design Commission looks forward to the review of your project when it becomes finalized.

Please contact Bennett Mark of our West Hawaii office at 327-3510 should you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Maile B. Melrose".

MAILE B. MELROSE, Chairman
Kailua Village Design Commission

cc: Chris Yuen, Planning Director
Planning Commission, c/o Norman Hayashi
Planning Dept.-West Hawaii Office

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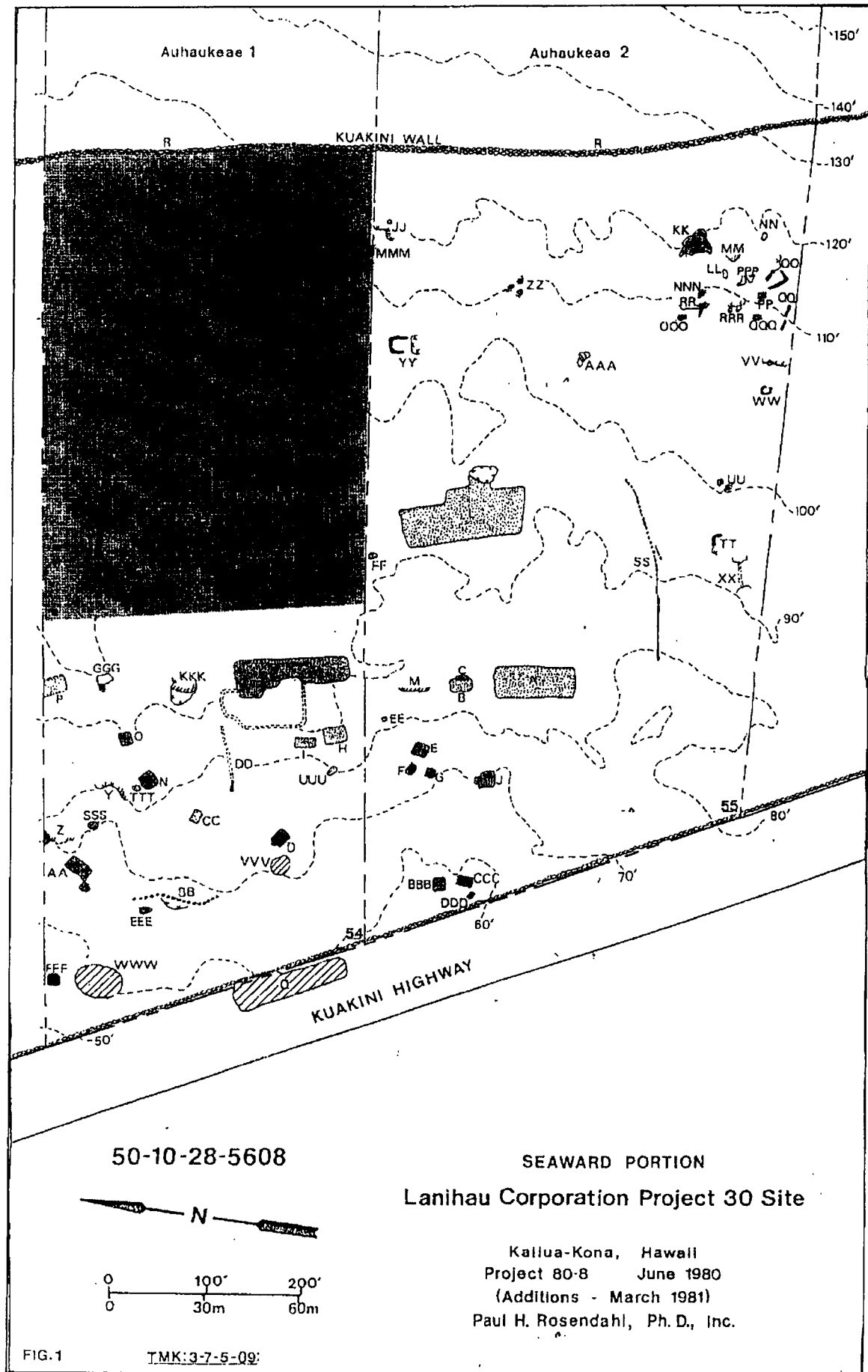


Figure 4. Project area map from Rosendahl (1981a) showing SIHP Site 5608 and the current study area.