

ORDINANCE NO. 05 26

AN ORDINANCE AMENDING SECTION 25-8-22 (PUNA DISTRICT ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM OPEN (O) TO FAMILY AGRICULTURAL (FA-2a) AT KAPOHO, PUNA, HAWAII, COVERED BY TAX MAP KEY 1-4-73:1.

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

SECTION 1. Section 25-8-22, 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 Kapoho, Puna, Hawaii, shall be Family Agricultural (FA-2a):

Beginning at a point at the south corner of this parcel of land, being also the west corner of Lot 58 and the easterly side of Ililani Road, (40-Foot Wide), the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAPOHO" being 3,372.75 feet North and 6,542.62 feet East and running by azimuths measured clockwise from True South:

- | | | | |
|----|--------------|-------------|--|
| 1. | 152° 14' | 285.19 feet | along the easterly side of Ililani Road (40 Feet Wide); |
| 2. | 228° 00' | 607.18 feet | along remainder of R.P. 7483, L.C. Award 4452, Apana 1 and 2 to H. Kalama; |
| 3. | 332° 14' 35" | 434.48 feet | along remainder of R.P. 7483, L.C. Award 4452, Apana 1 and 2 to H. Kalama; |

4. 62° 14' 588.47 feet along Lot 58 (File Plan 920) to the point of beginning and containing an area of 4.861 Acres.

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, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The applicant, successors or assigns shall be responsible for complying with all requirements of Chapter 205, Hawaii Revised Statutes, relating to permissible uses within the State Land Use Agricultural District.
- C. The proposed single family dwelling shall be constructed within 5 years from the effective date of this ordinance.
- D. Should the applicant, successors or assigns seek to further subdivide the property, lots shall be provided with a water system meeting with the approval of the Department of Water Supply prior to securing Final Subdivision Approval.

- E. Should any remains of historic sites, such as lava tubes, 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.
- F. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- G. 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.
- H. 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, its 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.

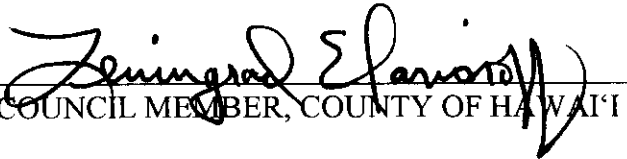
4. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

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.

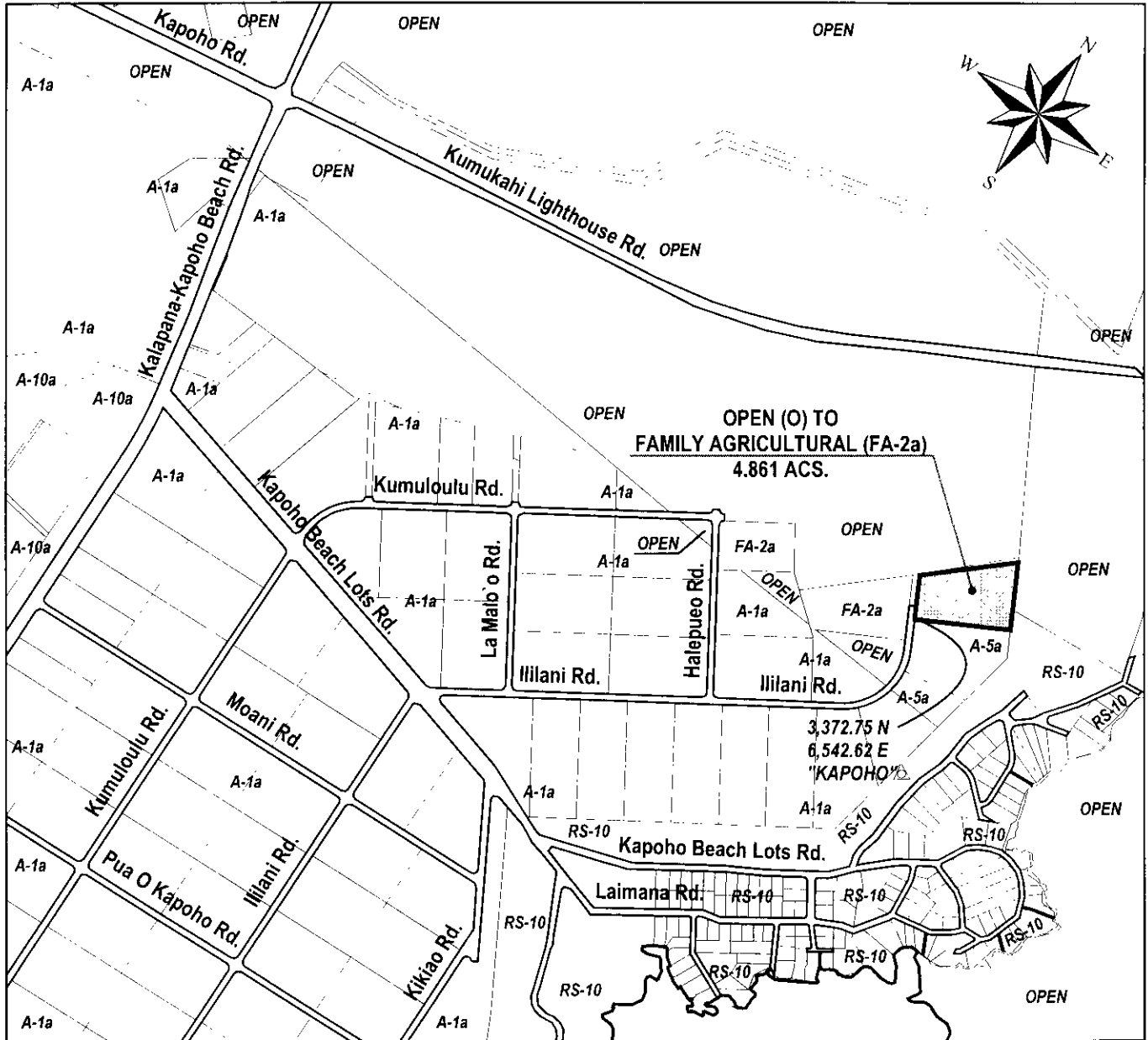
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: February 2, 2005
Date of 1st Reading: February 2, 2005
Date of 2nd Reading: February 16, 2005
Effective Date: February 18, 2005

REFERENCE: Comm. 8



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-22 (PUNA DISTRICT ZONE MAP)
 ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE,
 BY CHANGING THE DISTRICT CLASSIFICATION
 FROM OPEN (O)
 TO FAMILY AGRICULTURAL (FA-2a)
 AT KAPOHO, PUNA, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK
 County of Hawai'i
 Hilo, Hawai'i

2005 FEB 22 AM 8:00

Introduced By: Leningrad Elarionoff
 Date Introduced: February 2, 2005
 First Reading: February 2, 2005
 Published: N/A

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki			X	
Higa			X	
Hoffmann	X			
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago	X			
Safarik	X			
	7	0	2	0

REMARKS: _____

Second Reading: February 16, 2005
 To Mayor: February 17, 2005
 Returned: February 22, 2005
 Effective: February 18, 2005
 Published: February 27, 2005

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Higa	X			
Hoffmann	X			
Holschuh	X			
Ikeda	X			
Isbell	X			
Jacobson	X			
Pilago	X			
Safarik	X			
	9	0	0	0

REMARKS: _____

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

APPROVED AS TO
 FORM AND LEGALITY:

[Signature]
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 2/18/05

[Signature]
 COUNCIL CHAIRMAN
Constance R. Kiliu
 COUNTY CLERK

Approved/Disapproved this 18th day
 of February, 2005
[Signature]
 (MAYOR, COUNTY OF HAWAII)

Bill No.: 2
 Reference: C-8/PC-4
 Ord No.: 05 26