

ORDINANCE NO. 05 50

AN ORDINANCE AMENDING SECTION 25-8-35 (PEPEEKEO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM VILLAGE COMMERCIAL (CV-10), LIMITED INDUSTRIAL (ML-20), AND GENERAL INDUSTRIAL (MG-5a) TO SINGLE FAMILY RESIDENTIAL (RS-20) AND FROM AGRICULTURAL (A-20a) TO LIMITED INDUSTRIAL (ML-20) AT MAKAHANALOA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-8-8:103, POR.104, POR. 95, AND POR. 3.

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

SECTION 1. Section 25-8-35, 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 Makahanaloa, South Hilo, Hawai'i, shall be Single Family Residential (RS-20):

Parcel "A"

Beginning at the North corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "ALALA" being 4,024.79 feet North and 8,838.18 feet East and thence running by azimuths measured clockwise from true South:

- | | | | |
|----|----------|--------|--|
| 1. | 333° 00' | 317.00 | feet; |
| 2. | 98° 00' | 312.00 | feet; |
| 3. | 188° 00' | 121.30 | feet; |
| 4. | 153° 00' | 38.68 | feet; |
| 5. | 243° 00' | 186.00 | feet to the point of beginning and containing an area of 1.194 Acre. |

Parcel "B"

Beginning at the South corner of this parcel of land, being also along the North side of Easement R-2 of the Pepeekeo Point Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "ALALA" being 3,614.49 feet North and 8,483.19 feet East and thence running by azimuths measured clockwise from true South:

1.	87° 57' 30"	56.00	feet along the North side of Easement R-2 of the Pepeekeo Point Subdivision, being a portion of R.P. 7192, L.C. Aw. 8559-B, Ap. 17 & 18 to Wm. Lunalilo;
2.	175° 56'	63.00	feet;
3.	165° 42'	78.00	feet;
4.	98° 00'	26.00	feet;
5.	188° 00'	72.00	feet;
6.	278° 00'	354.00	feet;
7.	9° 00'	200.00	feet;
8.	99° 00'	226.63	feet to the point of beginning and containing an area of 1.462 Acre.

Parcel "C"

Beginning at the North corner of this parcel of land, being also along the North side of Easement R-2 of the Pepeekeo Point Subdivision, the coordinates of said point of beginning referred to Government Survey Triangulation Station "ALALA" being 3,614.49 feet North and 8,483.19 feet East and thence running by azimuths measured clockwise from true South:

1.	279° 00'	569.78	feet to the top of pali;
			Thence following along the top of pali as surveyed on October 22, 2002, for the next five (5) courses, the direct azimuths and distances between points along top of said pali being:
2.	41° 44'	118.00	feet;
3.	70° 10'	146.00	feet;
4.	131° 56'	239.00	feet;
5.	30° 01'	164.00	feet;
6.	337° 21' 30"	13.53	feet;

Thence following along the highwater mark as shown on map prepared by M&E Pacific, Inc., for the next two (2) courses, the direct azimuths and distances between points along said highwater mark being:

- | | | | |
|-----|---|--------------|---|
| 7. | 32° 44' | 225.30 | feet; |
| 8. | 9° 03' 19" | 215.75 | feet; |
| 9. | 109° 37' 19" | 460.00 | feet; |
| 10. | 197° 24' 21" | 415.15 | feet; |
| 11. | Thence along the South side of Easement R-2 of the Pepeekeo Point Subdivision, being a portion of R.P. 7192, L.C. Aw. 8559-B, Ap. 17 & 18 to Wm. Lunalilo, on a curve to the right with a radius of 19,142.00 feet, the chord azimuth and distance being: | | |
| | | 267° 51' 02" | 72.02 feet; |
| 12. | 267° 57' 30" | 130.00 | feet along the South side of Easement R-2 of the Pepeekeo Point Subdivision, being a portion of R.P. 7192, L.C. Aw. 8559-B, Ap. 17 & 18 to Wm. Lunalilo; |
| 13. | 177° 57' 30" | 60.00 | feet; |
| 14. | 267° 57' 30" | 173.00 | feet along the North side of Easement R-2 of the Pepeekeo Point Subdivision, being a portion of R.P. 7192, L.C. Aw. 8559-B, Ap. 17 & 18 to Wm. Lunalilo to the point of beginning and containing an area of 6.64 Acres, more or less. |

The district classification of the following area situated at Makahanaloa, South Hilo, Hawai'i, shall be Limited Industrial (ML-20):

Parcel "D"

Beginning at the Southeast corner of this parcel of land, being also along the North side of Easement R-2 of the Pepeekeo Point Subdivision, the coordinates of said point of

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. Comply with all requirements of the Department of Water Supply regarding potable water.
 - C. Final Subdivision Approval of the proposed subdivision within the proposed single family residential zoned area shall be secured from the Planning Director within five (5) years from the effective date of this ordinance.
 - D. The project, including the provision of public accesses to and along the shoreline, limitation on the number of dwellings in the RS zone, and furnishing of water to the lots, shall be completed in substantial compliance with the Settlement Agreement dated April 12, 2002. The applicant shall submit the applicable public access easement or declaration documents to the Planning Director for recordation at the Bureau of Conveyances within 180 days of the effective date of this ordinance. The

applicant shall also provide one additional public vehicular access and a parking area sufficient for a minimum of four (4) vehicles at the location south of the former Pepeekeo Mill Site in the approximate area known as “Iron Post.”

- E. Final Plan Approval for the Industrial-zoned lands shall be secured from the Planning Director in accordance with the Zoning Code. Plans shall identify proposed structure(s), fire protection measures, access roadway, driveway and parking stalls. Landscaping shall be provided in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements).
- F. All development generated runoff shall be disposed of on-site and not be directed toward any adjacent properties.
- 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 – 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 mitigation measures have been taken.
- H. All dwellings shall be served by an approved septic tank/leach field system.
- I. The applicant shall comply with all applicable laws, rules and regulations and requirements of affected agencies for the development of the industrial zoned area.
- J. 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.

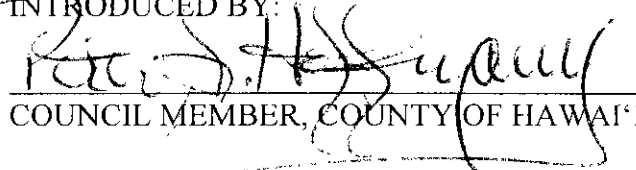
2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
3. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.
4. The time extension granted shall be for a period not to exceed the period originally granted 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.

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:

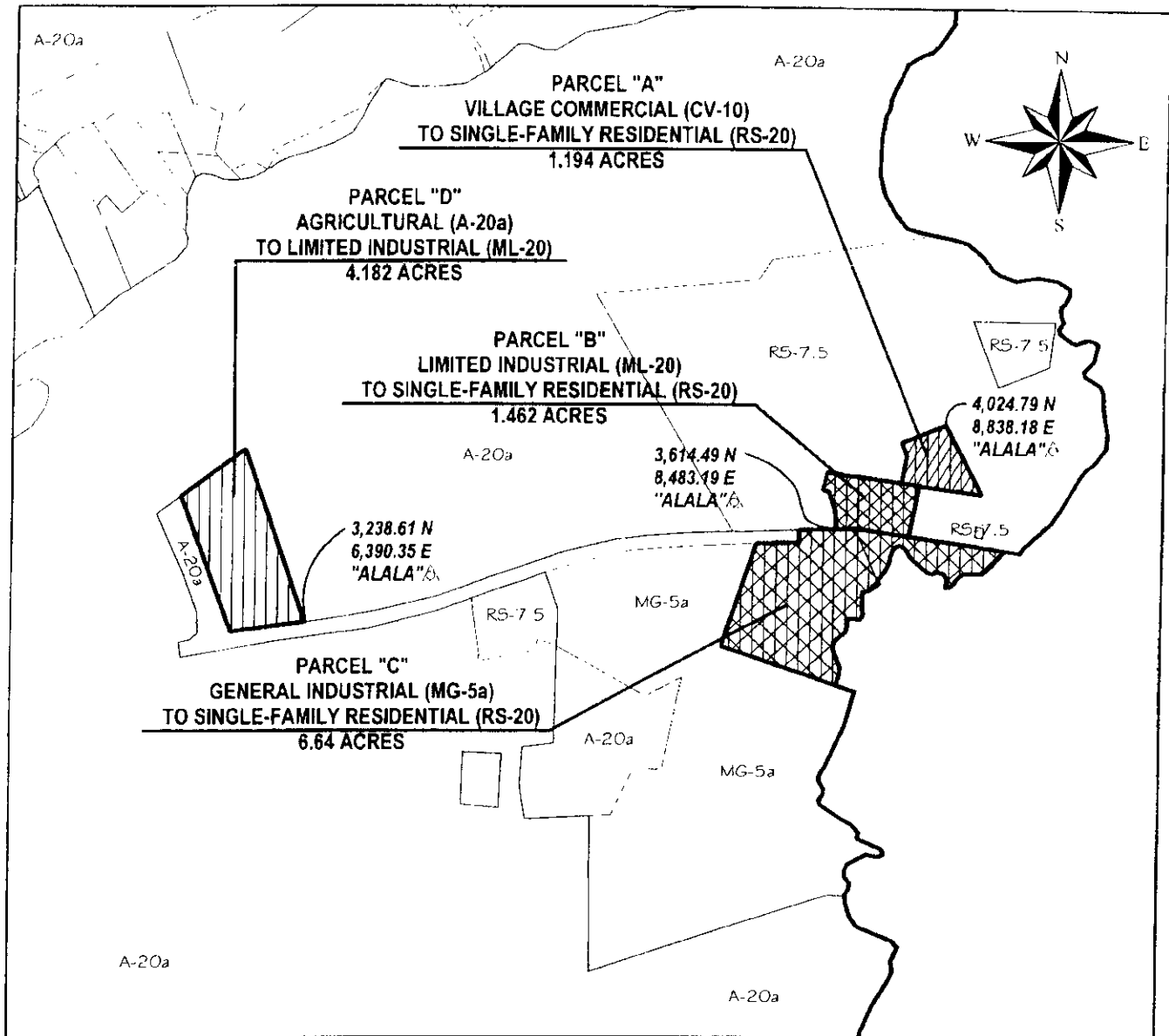

COUNCIL MEMBER, COUNTY OF HAWAI'I

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i

Date of Introduction: February 16, 2005
Date of 1st Reading: February 16, 2005
Date of 2nd Reading: April 6, 2005
Effective Date: April 18, 2005



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-35 (PEPEEKEO ZONE MAP)
ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE,
BY CHANGING THE DISTRICT CLASSIFICATION
FROM VILLAGE COMMERCIAL (CV-10), LIMITED INDUSTRIAL (ML-20),
AND GENERAL INDUSTRIAL (MG-5a) TO SINGLE-FAMILY RESIDENTIAL (RS-20)
AND FROM AGRICULTURAL (A-20a) TO LIMITED INDUSTRIAL (ML-20)
AT MAKAHANALOA, SOUTH HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT
COUNTY OF HAWAII

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

Introduced By: Angel Pilago & Pete Hoffmann
 Date Introduced: February 16, 2005
 First Reading: February 16, 2005
 Published: N/A

REMARKS: March 1, 2005 - Postponed

Second Reading: April 6, 2005
 To Mayor: April 13, 2005
 Returned: April 19, 2005
 Effective: April 18, 2005
 Published: April 22, 2005

REMARKS: _____

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			
	8	1	0	0

(Draft 2)

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			
	8	1	0	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:

B.G. Keithhead, J.D.
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII

Date 4/14/05

Bob Jacobson

COUNCIL CHAIRMAN

Peter A. Hill
 COUNTY CLERK

Bill No.: 356 (Draft 2)

Reference: C-92.41/PC-7

Ord No.: 05 50

Approved/Disapproved this 18th day
 of April, 2005

Harry Kim
 MAYOR, COUNTY OF HAWAII