

BILL NO. 95
(Draft 3)

ORDINANCE NO. 05 105

AN ORDINANCE AMENDING SECTIONS 25-8-32 (SOUTH HILO ZONE MAP) AND 25-8-33 (CITY OF HILO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-20a) AND MULTIPLE-FAMILY RESIDENTIAL (RM-1) TO MULTIPLE-FAMILY RESIDENTIAL (RM-10) AND AGRICULTURAL (A-20a) AT KALALAU, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-6-8:PORTION OF 22 AND 2-6-9:PORTION OF 8.

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

SECTION 1. Sections 25-8-32 and 25-8-33, 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 area situated at Kalalau, South Hilo, Hawai'i, shall be Multiple-Family Residential (RM-10):

PARCEL A:

Beginning at the northeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI", being 5,643.93 feet North and 1,016.71 feet East, thence running by azimuths measured clockwise from true South:

1. 26° 50' 167.09 feet along Lot B;
2. Thence along the middle of Pukihae Stream, the direct azimuth and distance being:
100° 56' 154.74 feet;
3. 207° 48' 96.14 feet along the remainder of Lot 22;
4. 253° 48' 96.07 feet along same;
5. 265° 00' 90.61 feet along same to the point of beginning and containing an area of 20,084 Square Feet, more or less.

The district classification of the following area situated at Kalalau, South Hilo, Hawai'i, shall be Agricultural (A-20a):

PARCEL B:

Beginning at the southwest corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI", being 5,643.93 feet North and 1,016.71 feet East, thence running by azimuths measured clockwise from true South:

1. 206° 50' 88.91 feet along Lot 22;
2. 355° 00' 30" 75.54 feet along Wainaku Street;
3. 85° 00' 46.89 feet along the remainder of Lot B to the point of beginning and containing an area of 1,771 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 applicants, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.

- B. The applicant (Leaird) shall submit a change of zone application for the remainder of TMK: 2-6-008: 022 that is currently zoned Multiple-Family Residential 1,000-square feet to Multiple-Family Residential 10,000 square feet (RM-10) within six (6) months from the effective date of this ordinance.
- C. Prior to the issuance of a water commitment by the Department of Water Supply, the applicant (Leaird) shall submit the anticipated maximum daily water usage calculations as recommended by a registered engineer, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within ninety (90) days from the effective date of this ordinance.
- D. Construction of the proposed development shall be completed within five (5) years from the effective date this ordinance. Prior to construction, the applicants, 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), Hawaii 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).
- E. All driveway connections to Wainaku Street shall conform to Chapter 22, Streets and Sidewalks, of the Hawaii County Code.
- F. A drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to issuance of a construction permit. The recommended drainage improvements shall be constructed meeting with the approval of the Department of Public Works prior to receipt of a Certificate of Occupancy.

- G. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
- H. The applicant shall install a backflow preventer by a licensed contractor on the applicant's private property just after the meter, meeting with the approval of the Department of Water Supply.
- I. 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.
- J. 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 Resource -- State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
- K. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- L. The applicant shall make its fair share contribution to mitigate the potential regional impacts of the property with respect to parks and recreation, fire, police, solid waste disposal facilities and roads. The fair share contribution shall be initially based on the representations contained within the change of zone application and may be increased or reduced proportionally if the lot counts are adjusted. The fair share contribution shall become due and payable prior to receipt of Final Plan Approval or within five years from the effective date of this change of zone ordinance, whichever occurs first. The fair share contribution for each unit shall be based on a maximum density for each unit as determined by the

zoning resulting from this change of zone. The fair share contribution in a form of cash, land, facilities or any combination thereof shall be determined by the County Council. The fair share contribution may be adjusted annually beginning three years after the effective date of this ordinance, based on the percentage change in the Honolulu Consumer Price Index (HCPI). 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 1 (one) residential unit, the indicated total of fair share contribution is **\$6,206.06** for the one residential unit. 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 per multiple family residential unit shall be allocated as follows:

1. **\$3,061.27** for multiple family residential unit to the County to support park and recreational improvements and facilities for a indicated total of **\$6,122.54**;
2. **\$96.75** per multiple family residential unit to the County to support police facilities for an indicated total of **\$193.50**;
3. **\$297.62** per multiple family residential unit to the County to support fire facilities for an indicated total of **\$595.24**;
4. **\$132.65** per multiple family residential unit to the County to support solid waste facilities for an indicated total of **\$265.30**; and
5. **\$2,617.77** per multiple family residential unit to the County to support road and traffic improvements for an indicated total of **\$5,235.54**.

In lieu of paying the fair share contribution, the applicant may contribute land and/or construct 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 review and recommendation of the Planning Director, upon consultation with the appropriate agencies and approval of the County Council. If the remainder of TMK:2-6-008:022 that is currently zoned RM-1 is rezoned to RM-10, fair share requirements will be waived.

- M. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exaction or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.

- N. 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 be approved by the County Housing Agency prior to final plan approval.

- O. An initial extension of time for the performance of conditions within the permit 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.

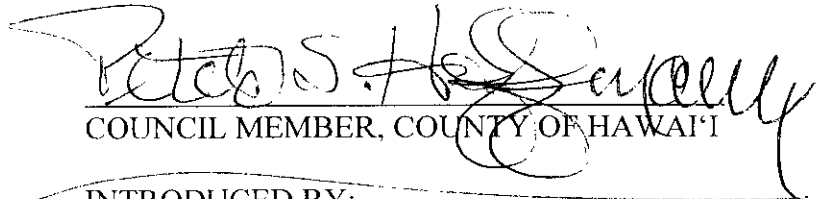
4. The time extension granted shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).
5. If the applicant should require an additional extension of time, the Planning Department shall submit the applicant's request to the County Council for appropriate action.

P. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the 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.

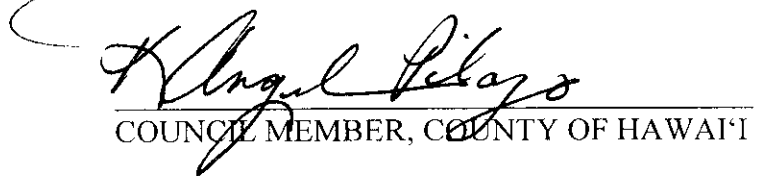
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:



 COUNCIL MEMBER, COUNTY OF HAWAII

INTRODUCED BY:

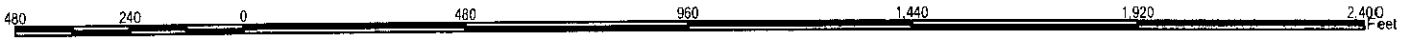
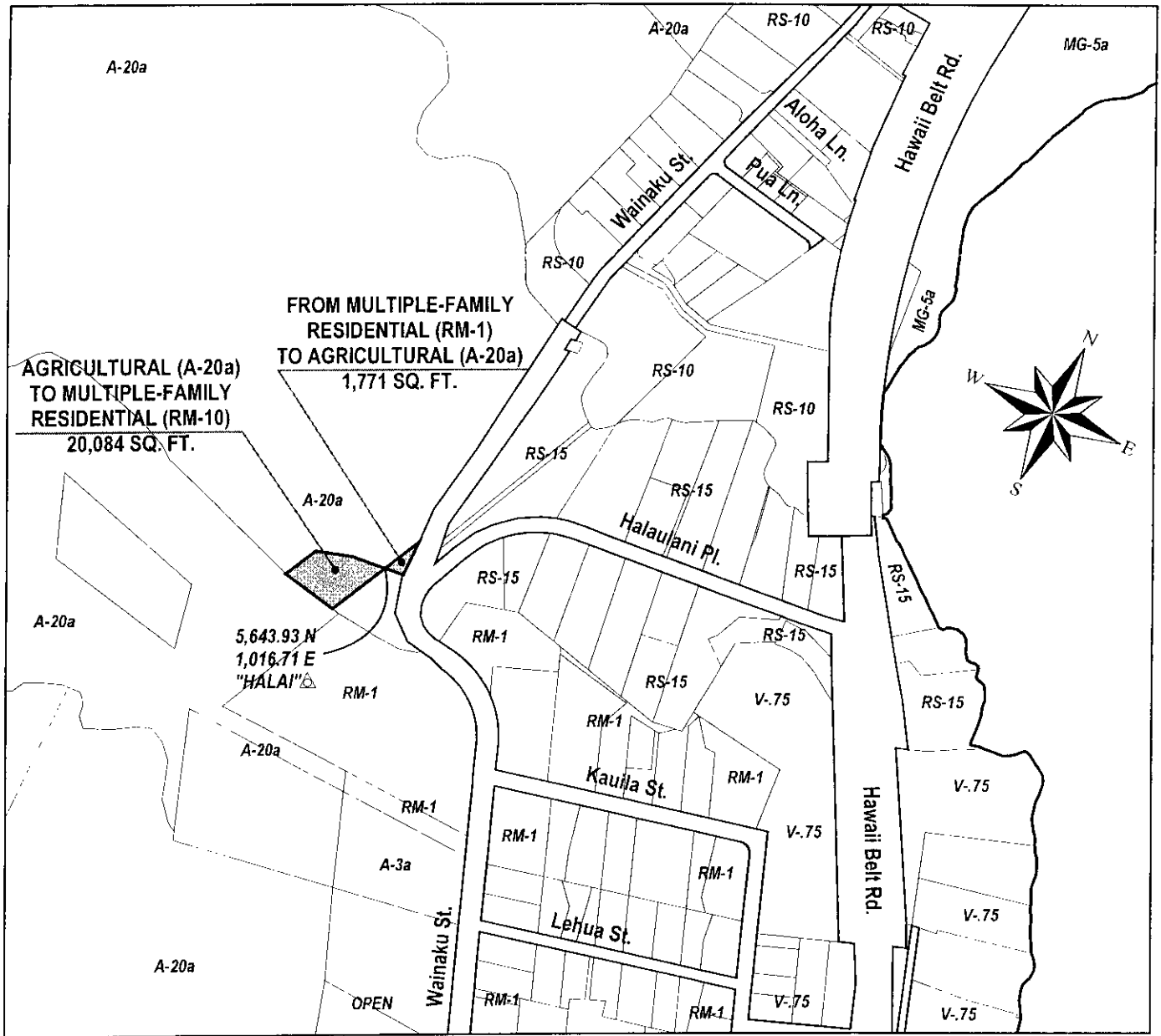


 COUNCIL MEMBER, COUNTY OF HAWAII

_____ Kona _____, Hawai'i

Date of Introduction: June 1, 2005
 Date of 1st Reading: June 1, 2005
 Date of 2nd Reading: June 15, 2005
 Effective Date: June 17, 2005

REPEALS FOR: Ordinance 243.2



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-32 (SOUTH HILO ZONE MAP) AND 25-8-33 (CITY OF HILO ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM MULTIPLE-FAMILY RESIDENTIAL (RM-1) AND AGRICULTURAL (A-20a) TO AGRICULTURAL (A-20a) AND MULTIPLE-FAMILY RESIDENTIAL (RM-10) AT KALALAU, SOUTH HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT
COUNTY OF HAWAII

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

(Draft 3)

Introduced By: Pete Hoffmann/K. Angel Pilago
Date Introduced: June 1, 2005
First Reading: June 1, 2005
Published: June 12, 2005

REMARKS: _____

Second Reading: June 15, 2005
To Mayor: June 16, 2005
Returned: June 17, 2005
Effective: June 17, 2005
Published: June 23, 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			
	9	0	0	0


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	0	1	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:


DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII
JUN 16 2005
Date _____


COUNCIL CHAIRMAN

COUNTY CLERK

Approved/Disapproved this 17th day
of June, 2005

MAYOR, COUNTY OF HAWAII

Bill No.: 95 (Draft 3)
Reference: C-243.2/PC-22
Ord No.: 05 105