

ORDINANCE NO. 06 29 BILL NO. 200

AN ORDINANCE AMENDING SECTION 25-8-34 (PAPAIKOU-ONOMEA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-20a) AND SINGLE FAMILY RESIDENTIAL (RS-15) TO FAMILY AGRICULTURAL (FA-5a) AT WAINAKU, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY 2-6-032:004 & 005.

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

SECTION 1. Section 25-8-34, Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), is amended to change the district classification of property described hereinafter as follows:

The district classification of the following areas situated at Wainaku, South Hilo, Hawai'i, shall be Family Agricultural (FA-5a):

Parcel "A":

Beginning at the southeast corner of this parcel of land, and on the northerly side of Roadway Lot A, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI", being 10,360.78 feet North and 663.25 feet East, thence running by azimuths measured clockwise from true South:

1. 94° 04' 723.09 feet along Roadway Lot A;
2. 251° 00' 103.56 feet along the remainder of Lot 5;
3. Thence along the remainders of Lots 5 and 4 on a curve to the right with a radius of 850.00 feet, the chord azimuth and distance being:
264° 45' 404.07 feet;
4. 278° 30' 225.00 feet along the remainder of Lot 4;

5. 1° 00' 88.73 feet along the remainder of Lot 4 to the point of beginning and containing an area of 1.372 Acres.

Parcel "B":

Beginning at the southeast corner of this parcel of land, being also the southwest corner of Lot 3 and on the northwesterly side of Roadway Lot A, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI", being 10,689.82 feet North and 1,155.76 feet East, thence running by azimuths measured clockwise from true South:

1. 44° 46' 355.08 feet along Roadway Lot A;
2. Thence along the same on a curve to the right with a radius of 270.00 feet, the chord azimuth and distance being:
69° 25' 225.22 feet;
3. 94° 04' 31.68 feet along Roadway Lot A;
4. 181° 00' 88.73 feet along the remainder of Lot 4;
5. 98° 30' 225.00 feet along same;
6. Thence along the remainders of Lots 4 and 5 on a curve to the left with a radius of 850.00 feet, the chord azimuth and distance being:
84° 45' 404.07 feet;
7. 71° 00' 103.56 feet along the remainder of Lot 5;
8. 94° 04' 213.12 feet along Roadway Lot A;
9. Thence along Roadway Lot B on a curve to the right with a radius of 20.00 feet, the chord azimuth and distance being:
134° 55' 26.16 feet;
10. 175° 46' 708.72 feet along Roadway Lot B;
11. 265° 06' 46" 1,390.18 feet;
12. 349° 05' 591.77 feet along Lot 3 to the point of beginning and containing an area of 24.750 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 1983 (2005 Edition), 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 required water commitment payment shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within ninety days from the effective date of this ordinance.
- C. The applicant shall comply with the construction improvements and installation requirements, meeting with the approval of the Department of Water Supply, prior to Final Subdivision Approval.
- D. Final Subdivision Approval shall be secured within five (5) years from the effective date of this ordinance.

- E. The preliminary subdivision shall show the location of all allowed driveway accesses on Kulana Kea Drive with an indication of available sight distance. The driveway accesses and sight distances shall be reviewed and approved by the Planning Director in consultation with the Department of Public Works.
- F. All structures on the properties shall comply with the height limit for a Single-Family Residential (RS) zone.
- G. Restrictive covenants in the deeds of all the proposed lots shall give notice that the terms of the zoning ordinance prohibit the construction of a second dwelling unit and condominium property regimes on each lot. This restriction may be removed by amendment of this ordinance by the County Council. The owners of the property may also impose private covenants restricting the number of dwellings. A copy of the proposed covenant(s) to be recorded with the State of Hawai'i 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 recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.
- H. As agreed by the applicant, a restrictive covenant in the deed to the mauka-most lot shall require the landowner to consult with the owners of TMKs: 2-6-32: 13, 14 & 20, regarding the placement of any structures, before the submittal of plans for a building permit.

- I. The applicant shall establish drainage easements and maintain drainageways so as to direct water in a northerly direction away from Kulana Kea Road. The drainage easements shall follow the existing plantation system unless otherwise established by a conservation plan approved by the Soil and Water Conservation District. The applicant, its successors, and assigns shall maintain the drainage easements. The drainage easements shall be included in any preliminary subdivision map.
- J. All development generated runoff shall be disposed of on site and not be directed toward any adjacent properties.
- K. The method of sewage disposal shall meet with the requirements of the State Department of Health.
- L. 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-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-HPD when it finds that sufficient mitigation measures have been taken.
- M. Comply with all applicable County, State and Federal Laws, rules, regulations and requirements.
- N. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of enactment of the ordinance. The report shall include, but not be limited to, the status of the development and the extent to which the conditions of approval have been satisfied. This condition shall remain in effect until all of the conditions of approval have been satisfied and the Planning Director acknowledges that further reports are not required.

O. 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 Department 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 Planning 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.

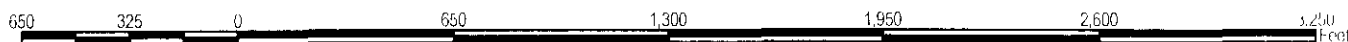
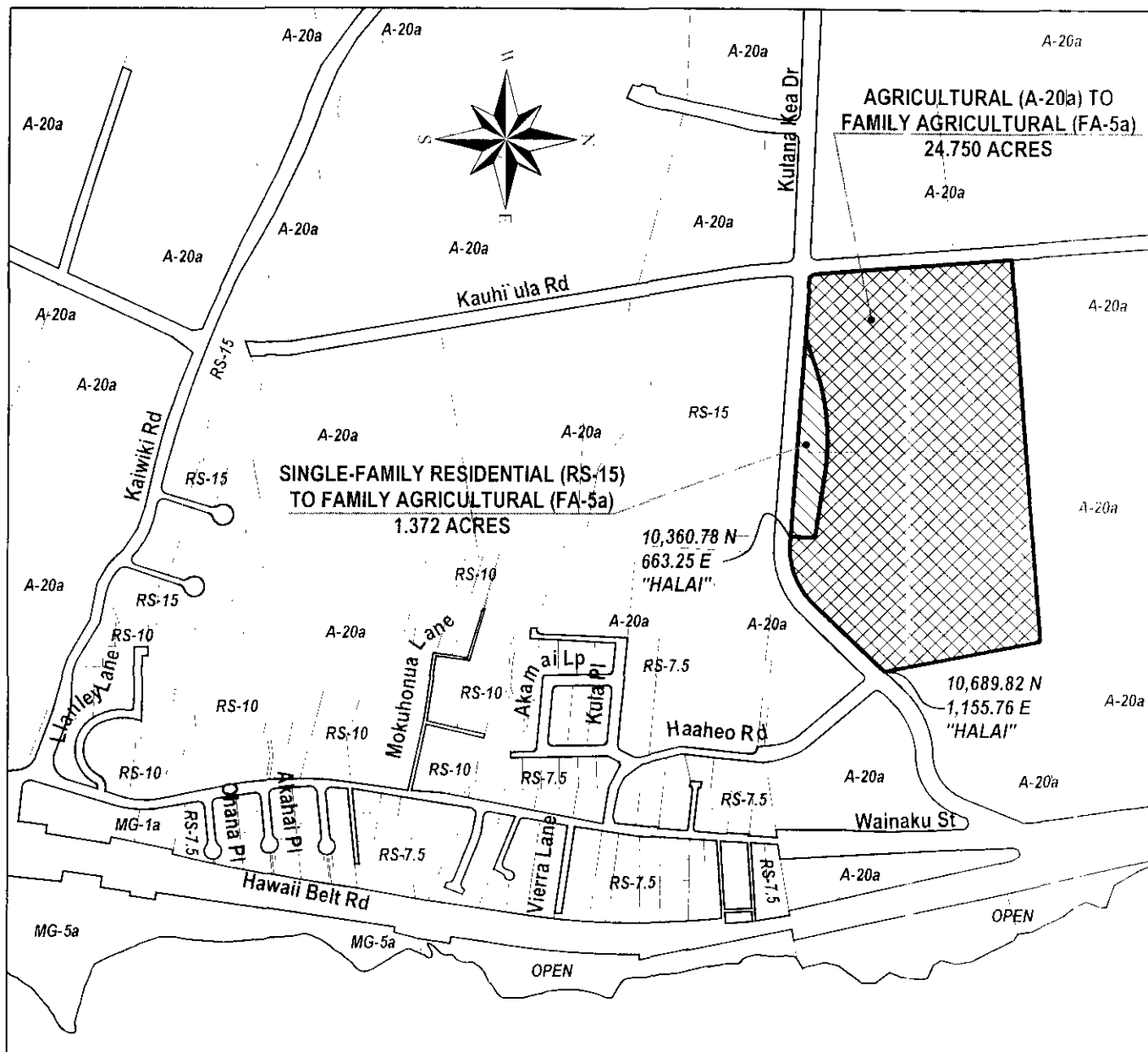
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawai'i

Date of Introduction: February 1, 2006
Date of 1st Reading: February 1, 2006
Date of 2nd Reading: February 15, 2006
Effective Date: February 24, 2006

REFERENCE: Comm. 617



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-34 (PAPAĪKOU-ONOMEA ZONE MAP)
 ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE
 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION
 FROM AGRICULTURAL (A-20a) AND
 SINGLE-FAMILY RESIDENTIAL (RS-15)
 TO FAMILY AGRICULTURAL (FA-5a)
 AT WAINAKU, SOUTH HILO, HAWAII

PREPARED BY: PLANNING DEPARTMENT
 COUNTY OF HAWAII

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

Introduced By: K. Angel Pilago
Date Introduced: February 1, 2006
First Reading: February 1, 2006
Published: N/A

REMARKS: _____

Second Reading: February 15, 2006
To Mayor: February 17, 2006
Returned: February 24, 2006
Effective: February 24, 2006
Published: March 4, 2006


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	0	1	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.

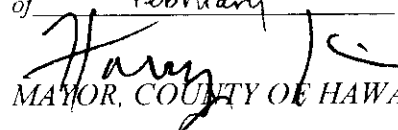
APPROVED AS TO
FORM AND LEGALITY:


DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date FEB 22 2006


COUNCIL CHAIRMAN


COUNTY CLERK

Approved/Disapproved this 24th day
of February, 2006

MAYOR, COUNTY OF HAWAII

Bill No.: 200
Reference: C-617/PC-53
Ord No.: 06 29