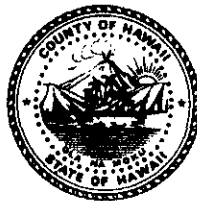


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. **06 81** BILL NO. 237

AN ORDINANCE AMENDING SECTION 25-8-15 (HAMAKUA DISTRICT 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) TO FAMILY AGRICULTURAL (FA-3a) AT WAIKOEKOE, HAMAKUA, HAWAI'I, COVERED BY TAX MAP KEY 4-7-007:048.

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

SECTION 1. Section 25-8-15, 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 area situated at Waikoekoe, Hamakua, Hawai'i, shall be Family Agricultural (FA-3a):

Beginning at the Northwesterly corner of this parcel of land, being a point on the Southerly side of Old Belt Road (Old Mamalahoa Highway) and on the Northeasterly side of Homestead Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "WAIMA (EAST BASE)" being 7,387.76 feet North and 11,933.25 feet East and running by azimuths measured clockwise from True South:

Thence, for the next seven (7) courses following along the Southerly side of Old Belt Road (Old Mamalahoa Highway):

1. 267° 21' 300.78 feet to a point;

Thence, following on a curve to the left with a radius of 1,805.00 feet, the chord azimuth and distance being:

2. 265° 24' 122.84 feet to a point;
3. 263° 27' 158.31 feet to a point;

Thence, following on a curve to the left with a radius of 6,690.00 feet, the chord azimuth and distance being:

4. 262° 55' 45" 121.63 feet to a point;
5. 262° 24' 30" 111.74 feet to a point;

Thence, following on a curve to the left with a radius of 3,255.00 feet, the chord azimuth and distance being:

6. 260° 59' 161.89 feet to a point;
7. 259° 33' 30" 1,042.12 feet to a point;
8. 350° 14' 30" 1,546.36 feet along Lot 1-A and along the remainder of Land Commission Award 8559-B, Apana 2 to William C. Lunalilo (Certificate of Boundaries No. 33) to a point;
9. 118° 44' 2,575.65 feet along the Northerly side of Homestead Road to the point of beginning and containing an area of 34.559 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. 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 Hawaii 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.
- F. All development generated runoff shall be disposed of on site and not be directed toward any adjacent properties.

- G. The applicant shall provide a 5-foot wide future road widening setback along the entire property frontage of Vierra Road.
- H. The applicant shall widen the pavement width of Vierra Road to a minimum of 20 feet along the entire property frontage meeting with the approval of the Department of Public Works. The applicant shall also comply with any required utility relocation meeting with the approval of the Department of Public Works.
- I. All driveway connections to Old Mamalahoa Highway and Vierra Road shall conform to Chapter 22, County Streets, of the Hawaii County Code.
- J. 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. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to receipt of a Certificate of Occupancy.
- K. The method of sewage disposal shall meet with the requirements of the State Department of Health.
- L. 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.
- M. 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 Administrator of the Office of Housing and Community Development prior to Final Subdivision Approval.

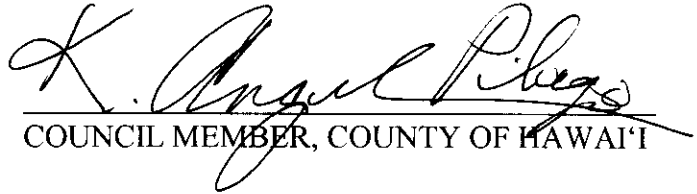
- N. The public benefits of the County Affordable Housing requirement shall not be substantially diluted by the transfer or sale of property to a family member(s).
- O. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, 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.
- P. The applicant shall inform lot purchasers of any restrictions on the use of the property that may result from its location within the state land use agricultural district, including any applicable laws regarding dwellings on the property.
- Q. Comply with all applicable County, State and Federal Laws, rules, regulations and requirements.
- R. 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.
- S. 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.
- T. 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: May 17, 2006
Date of 1st Reading: May 17, 2006
Date of 2nd Reading: June 5, 2006
Effective Date: June 16, 2006

REFERENCE: Comm. 723

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

Introduced By: K. Angel Pilago
Date Introduced: May 17, 2006
First Reading: May 17, 2006
Published: N/A

REMARKS: _____

Second Reading: June 5, 2006
To Mayor: June 7, 2006
Returned: June 16, 2006
Effective: June 16, 2006
Published: June 23, 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	1	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	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:

By Christopher Todd
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date 6/9/06

Approved/Disapproved this 16th day

of June, 2006

Harry L.
MAYOR, COUNTY OF HAWAII

[Signature]

COUNCIL CHAIRMAN

[Signature]
COUNTY CLERK

Bill No.: 237
Reference: C-723/PC-70
Ord No.: 06 81