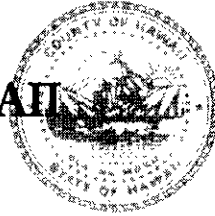


COUNTY OF HAWAII STATE OF HAWAII



BILL NO. 139
(Draft 2)

ORDINANCE NO. 39 137

AN ORDINANCE AMENDING SECTION 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 AGRICULTURAL (A-3a) TO FAMILY AGRICULTURAL (FA-1a) AT WAIAKEA, SOUTH HILO, HAWAII, COVERED BY TAX MAP KEY 2-2-48:14 AND 91.

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

SECTION 1. Section 25-8-33, 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 Waiakea, South Hilo, Hawaii, shall be Family Agricultural (FA-1a):

Beginning at the southeast corner of this parcel of land, being also the southwest corner of Lot 2-C and on the northerly side of Makalika Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI", being 15,908.51 feet South and 15,746.79 feet East, thence running by azimuths measured clockwise from true South:

1. 71° 00' 375.00 feet along Makalika Street;
2. Thence along the remainder of Grant 13,030 to Tsugio and Asako Miyamoto (Lot A) on a curve to the right with a radius of 20.00 feet, the chord azimuth and distance being:
116° 00' 28.28 feet;
3. 161° 00' 662.50 feet along the remainder of Grant 13,030 to Tsugio and Asako Miyamoto (Lot A);

- | | | | |
|----|----------|-------------|---|
| 4. | 251° 00' | 395.00 feet | along the remainder of Grant 13,030 to Tsugio and Asako Miyamoto (Lot A); |
| 5. | 341° 00' | 682.50 feet | along the remainder of Grant 13,030 to Tsugio and Asako Miyamoto (Lot 2-C) to the point of beginning and containing an area of 6.187 Acres. |

All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2. This change in district classification is conditioned upon the following:

- A. The applicants, its successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The applicants shall submit the anticipated maximum daily water usage calculation and the required water commitment payment 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 .
- C. The applicants, 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.
- D. Final Subdivision Approval of the proposed subdivision within the subject properties shall be secured from the Planning Director within five (5) years from the effective date of this ordinance.
- E. Install street lights, signs and markings meeting with the approval of the Department of Public Works.

- F. All new wastewater systems for each proposed lot within the subject property shall comply with the State Department of Health.
- G. The applicant shall make its fair share contribution to mitigate potential regional impacts of the subject project with respect to roads, parks and recreation, fire, police and solid waste disposal facilities. The amount of the fair share contribution shall be the sum which is the product of multiplying the number of residential lots proposed to be subdivided by the amounts allocated hereinbelow for each such lot, and shall become due and payable prior to final subdivision approval for any portion of the subject property or its increments. If the subject property is subdivided in two or more increments, the amount of the fair share contribution due and payable prior to final subdivision approval of each increment shall be a sum calculated in the same manner according to the number of proposed residential lots in each such increment. The fair share contribution, in a form of cash, land, facilities or any combination thereof, acceptable to the director in consultation with the affected agencies, shall be determined by the County Council. The fair share contribution shall have a maximum combined value of **\$7,239.16 per single-family residential unit**. Based upon the applicant's representation of intent to develop up to four (4) residential units, the indicated total of fair share contribution is **\$28,956.64** for single-family residential units. 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 G. The fair share contribution shall be allocated as follows:
1. \$3,490.85 per single-family residential unit for an indicated total of **\$13,963.40** to the County to support park and recreational improvements and facilities;
 2. \$168.40 per single-family residential unit for an indicated total of **\$673.60** to the County to support police facilities;

3. \$332.61 per single-family residential unit for an indicated total of **\$1,330.44** to the County to support fire facilities;
4. \$145.62 per single-family residential unit for an indicated total of **\$582.48** to the County to support solid waste facilities; and
5. \$3,101.68 per single-family residential unit for an indicated total of **\$12,406.72** to the State or County to support road and traffic improvements.

The fair share contributions described above shall be adjusted annually beginning three years after the effective date of the change of zone, based on the percentage change in the Honolulu Consumer Price Index (HCPI). In lieu of paying the fair share contribution, the applicant may construct and contribute 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 approval of the director. The cost of providing and constructing the improvements required in Condition E shall be credited against the sum specified in Condition G (5) for road and traffic improvements. For purposes of administering Condition G, the fair market value of land contributed or the cost of any improvements required or made in lieu of the fair share contribution shall be subject to review and approval of the director, upon consultation with the appropriate agencies.

Upon approval of the fair share contributions or in lieu contributions by the director, the director shall submit a final report to the Council for its information that identifies the specific approved fair share and/or in lieu contributions, as allocated, and further implementation requirements

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

- I. Comply with all other applicable laws, rules and regulations and requirements of the affected agencies for the development of the subject properties.

- 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 applicants, its successors or assigns, and that are not the result of their fault or negligence.

 - 2. Granting 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 reason for the granting of the change of zone.

 - 4. The time extension granted shall be for a period of 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 applicants should require an additional extension of time, the Planning Director shall submit the applicant's request to the County

Council for appropriate action.

- K. Should any of the conditions not be met or substantially complied with in a timely fashion, the Director may initiate rezoning of the subject property 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, Hawaii

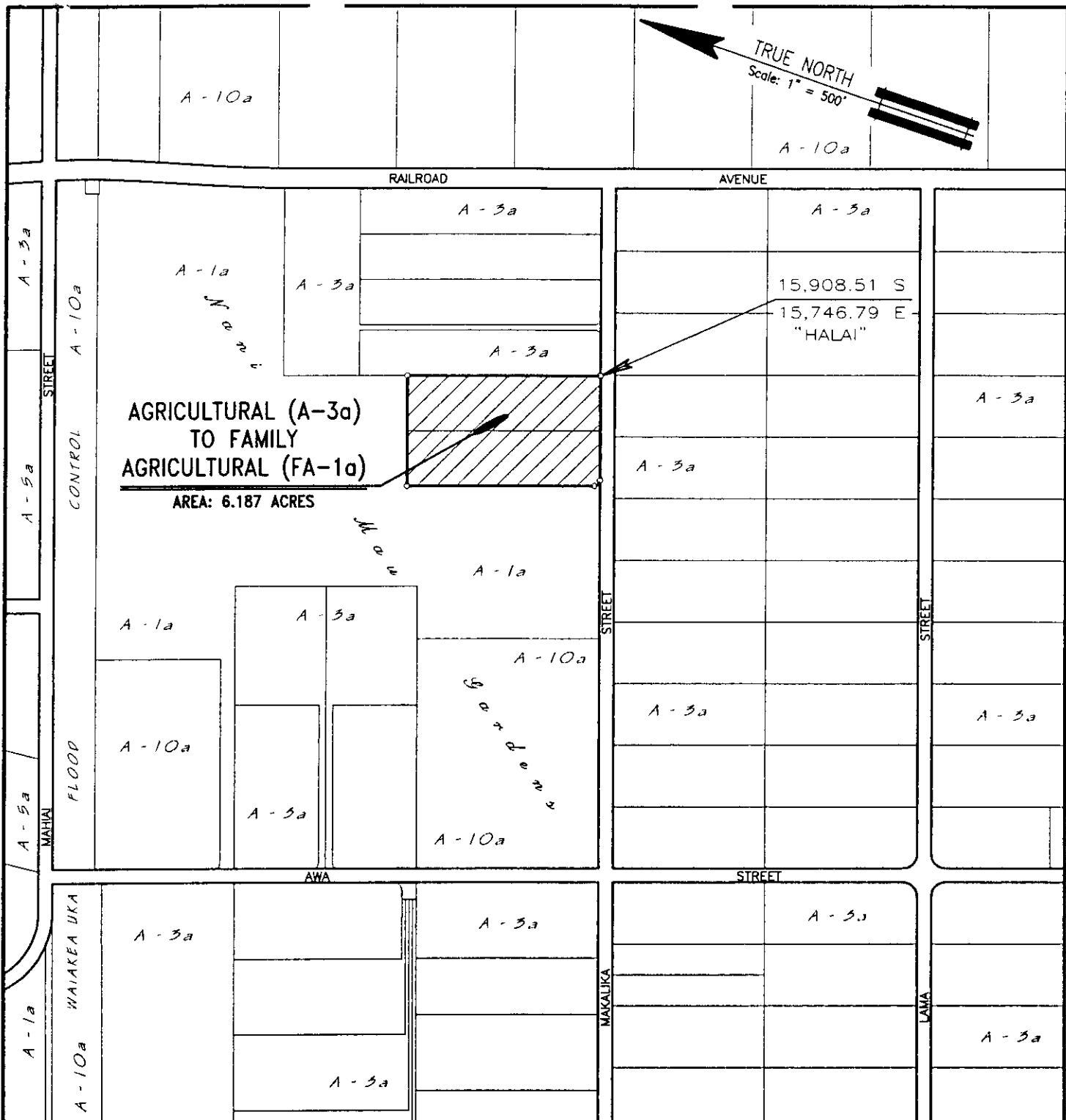
Date of Introduction: November 17, 1999
Date of 1st Reading: November 17, 1999
Date of 2nd Reading: December 1, 1999
Effective Date: December 10, 1999

APPROVED AS TO FORM AND LEGALITY



CORPORATION COUNSEL

DATED: _____



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 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 AGRICULTURAL (A-3a) TO FAMILY AGRICULTURAL (FA-1a) AT WAIAKEA, SOUTH HILO, HAWAII

PREPARED BY : PLANNING DEPARTMENT
COUNTY OF HAWAII

OFFICE OF THE COUNTY CLERK
County of Hawaii
Hilo, Hawaii

(DRAFT 2)

Introduced By: Bobby Jean Leithead-Todd
Date Introduced: November 17, 1999
First Reading: November 17, 1999
Published: November 26, 1999 (HTH & WHT)
November 29, 1999 (RFD Publ.)

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson		X		
Leithead-Todd	X			
Pisicchio	X			
Smith	X			
Tyler	X			
Yagong	X			
	8	1	0	0

Second Reading: December 1, 1999
To Mayor: December 6, 1999
Returned: December 10, 1999
Effective: December 10, 1999
Published: December 20, 1999

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson		X		
Leithead-Todd	X			
Pisicchio	X			
Smith	X			
Tyler	X			
Yagong			X	
	7	1	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:

Patricia K. O'Neil
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date DEC 7 1999

[Signature]
COUNCIL CHAIRMAN
[Signature]
COUNTY CLERK

Approved/Disapproved this 10 day
of December, 19 99

Stephen K. Yamashiro
MAYOR, COUNTY OF HAWAII

Bill No.: 139 (Draft 2)
Reference: C-465.001/PC-59
Ord. No.: 99 137