



ORDINANCE NO. 01 75

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 RESIDENTIAL AND AGRICULTURAL (RA-.5a) AT WAIAKEA, SOUTH HILO, HAWAII, COVERED BY TAX MAP KEY 2-4-30:004.

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 Residential and Agricultural (RA-.5a):

Beginning at the Southwest corner of this parcel of land, being also the Northwest corner of Lot A-2 and on the easterly side of Ainalako Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 18,860.02 feet South and 884.74 feet East, thence running by azimuths measured clockwise from true South:

1. 180° 04' 165.02 feet along the easterly side of Ainalako Road;
2. 265° 40' 657.53 feet along a portion of Grant 8653 to Charles H. Will, being also along a portion of Sportsman's Paradise Lots;
3. 355° 40' 196.83 feet along the remainder of Grant 11610 to Edward Shigeo and Tsuneko N. Imamura, being also along the remainder of Lot 1100, Waiakea Homesteads, 2<sup>nd</sup> Series (Lot A-2);

4. 85° 40' 640.28 feet along same;
5. Thence along the same on a curve to the right with a radius of 30.00 feet, the chord azimuth and distance being 132° 52' 44.02 feet to the point of beginning and containing an area of 3.000 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, 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 Rural District.
- C. 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.
- D. Final Subdivision Approval of the proposed subdivision shall be secured from the Planning Director within five (5) years from the effective date of the ordinance. Plans shall include a future road widening setback of five (5) feet along the frontage of Ainalako Road.
- E. Access(es) and intersection roadway improvements to the subject property from Ainalako Street shall meet with the requirements and approval of the Department of Public Works.

- F. All roadways within the proposed subdivision shall be constructed meeting with the requirements of Chapter 23, Subdivision Code.
- G. A drainage study of the subject property, if required, shall be prepared for review and approval by the Department of Public Works, prior to submittal of plans for subdivision review. Drainage improvements, if required, shall be constructed or bonded meeting with the approval of the Department of Public Works prior to the issuance of Final Subdivision Approval.
- H. 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-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient mitigation measures have been taken.
- I. 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 **\$7,876.20** 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 **\$31,504.80** 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 I. The fair share contribution shall be allocated as follows:

1. \$3,798.04 per single-family residential unit for an indicated total of **\$15,192.16** to the County to support park and recreational improvements and facilities;
2. \$183.22 per single-family residential unit for an indicated total of **\$732.88** to the County to support police facilities;
3. \$361.88 per single-family residential unit for an indicated total of **\$1,447.52** to the County to support fire facilities;
4. \$158.43 per single-family residential unit for an indicated total of **\$633.72** to the County to support solid waste facilities; and
5. \$3,374.63 per single-family residential unit for an indicated total of **\$13,498.52** 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 I (5) for road and traffic improvements. For purposes of administering Condition I, 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.

- J. Restrictive covenants in the deeds of all the proposed residential lots within the subject property shall prohibit the construction of a second dwelling unit on each lot. A copy of the proposed covenant(s) to be recorded with the 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 approved covenant(s) shall be recited in an instrument executed by the applicant and the County and recorded with the Bureau of Conveyances for any portion of the subject property. A copy of the recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances.
- K. The applicant shall comply with the Department of Health regulations, for property located in the Critical Wastewater Disposal Area, to dispose of wastewater into a septic tank system.
- L. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessments of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact

Fees Ordinance.

- M. In lieu of actual construction of infrastructural improvements as conditioned above, the applicants may enter into an agreement with the Planning Director and the Department of Public Works and the Department of Water Supply, if applicable, to assure the County that the infrastructural improvements will be constructed together with the appropriate bond, surety or other security deemed acceptable to the Planning Director and the Corporation Counsel. Upon execution of such agreement and/or filing of the security with the County, if applicable, Final Subdivision Approval for the subject property or portions thereof may be granted prior to the actual construction of required infrastructural improvements unless otherwise restricted herein.
  
- N. Comply with all applicable rules, regulations and requirements of the affected agencies for approval of the proposed development.
  
- O. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of the approval of the ordinance. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.
  
- P. 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 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).

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: August 15, 2001  
Date of 1st Reading: August 15, 2001  
Date of 2nd Reading: August 29, 2001  
Effective Date: September 5, 2001

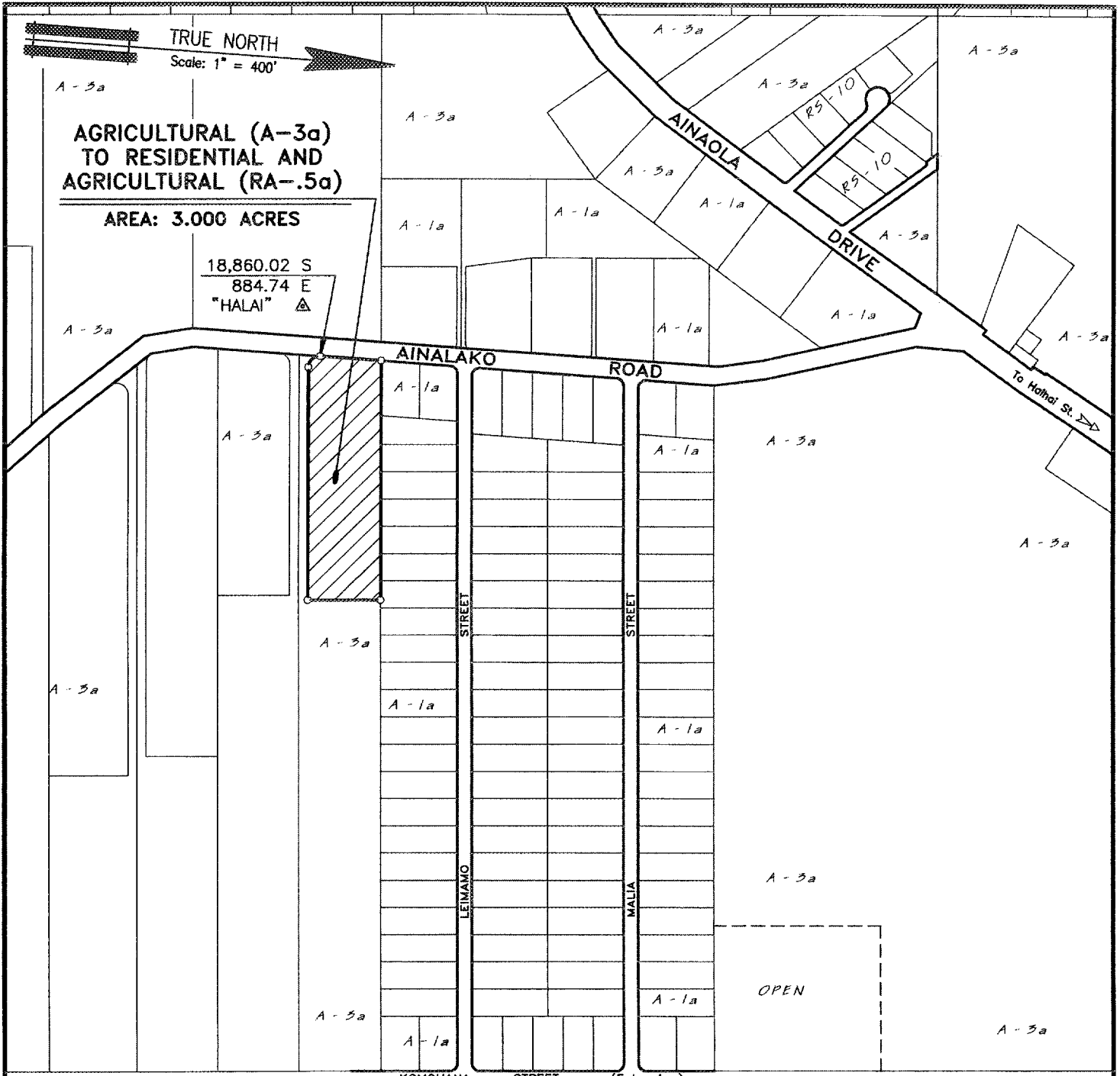
REFERENCE: Comm. 253.3

APPROVED AS TO FORM AND LEGALITY

**DEPUTY**

  
\_\_\_\_\_  
CORPORATION COUNSEL

DATED: 8/21/01



**AGRICULTURAL (A-3a)  
TO RESIDENTIAL AND  
AGRICULTURAL (RA-5a)**

**AREA: 3.000 ACRES**

18,860.02 S  
884.74 E  
"HALAI"  $\triangle$

TRUE NORTH  
Scale: 1" = 400'

# AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-32 (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 RESIDENTIAL AND AGRICULTURAL (RA-5a) AT WAIAKEA, SOUTH HILO, HAWAII.

PREPARED BY : PLANNING DEPARTMENT  
COUNTY OF HAWAII

TMK : 2-4-30: 4

MAY 8, 2001

EXHIBIT "A"

(IMAMURA FAMILY ETAL)





OFFICE OF THE COUNTY CLERK

County of Hawaii

Hilo, Hawaii

(DRAFT 4)

Introduced By: Bobby-Jean Leithead-Todd  
 Date Introduced: August 15, 2001  
 First Reading: August 15, 2001  
 Published: August 22, 2001

REMARKS: \_\_\_\_\_  
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Second Reading: August 29, 2001  
 To Mayor: August 30, 2001  
 Returned: September 5, 2001  
 Effective: September 5, 2001  
 Published: September 16, 2001

REMARKS: \_\_\_\_\_  
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung	X			
Elarionoff	X			
Jacobson	X			
Leithead-Todd	X			
Pisicchio	X			
Safarik	X			
Tyler	X			
Yagong	X			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
Elarionoff	X			
Jacobson		X		
Leithead-Todd	X			
Pisicchio	X			
Safarik	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:

  
 DEPUTY CORPORATION COUNSEL  
 COUNTY OF HAWAII

Date 8/31/01

  
 COUNCIL CHAIRMAN

COUNTY CLERK

Bill No.: 73 (Draft 4)  
 Reference: C-253.2/PC-30  
 Ord No.: 01 75

Approved/Disapproved this 5<sup>th</sup> day

of September, 2001

  
 MAYOR, COUNTY OF HAWAII