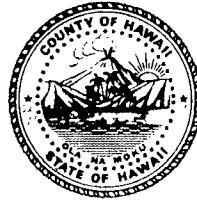


COUNTY OF HAWAI‘I



STATE OF HAWAI‘I

ORDINANCE NO. 09 149 BILL NO. 155

AN ORDINANCE AMENDING SECTION 25-8-33 (CITY OF HILO ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI‘I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – 3 ACRES (A-3a) TO FAMILY AGRICULTURAL – 1 ACRE (FA-1a) AT WAIĀKEA, SOUTH HILO, HAWAI‘I, COVERED BY TAX MAP KEY: 2-4-031:008.

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

SECTION 1. Section 25-8-33, 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 Waiākea, South Hilo, Hawai‘i, shall be Family Agricultural – 1 acre (FA-1a):

Beginning at the west corner of this parcel of land and on the south side of Ainaola Drive, the coordinates of said point of beginning referred to Government Survey Triangulation Station “HALAI” being 18,256.10 feet South and 97.10 feet West, thence running by azimuths measured clockwise from True South:

1. 238° 57’ 27.10 feet along Ainaola Drive;
2. 231° 58’ 121.50 feet along Ainaola Drive;
3. 220° 40’ 36.50 feet along Ainaola Drive;
4. 320° 40’ 200.00 feet along the remainder of Lot 1001-A, Grant 10,965 to Masataro Nagata;
5. 230° 40’ 225.05 feet along the remainder of Lot 1001-A, Grant 10,965 to Masataro Nagata;
6. 355° 40’ 578.60 feet along Lots 1, 2 and 5 of Kaiulani Subdivision, Unit II;

- 7. 85° 40' 450.24 feet along Lot 14, being a portion of Grant 11,611 to Mitsuo Murashige;
- 8. 175° 40' 507.80 feet along Lots 12, 13 and 14 of Hale Hooko Acres to the point of beginning and containing an area of 5.50 Acres, more or less.

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:

Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or

- (1) 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(s), 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, Hawai'i Revised Statutes, relating to permissible uses within the State Land Use Agricultural 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 one hundred and eighty (180) days from the effective date of this ordinance.

- D. Final Subdivision Approval of the proposed subdivision development shall be secured within five (5) years from the effective date of this change of zone ordinance.
- E. Restrictive covenants in the deeds of all proposed lots within the property 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 owner of the property may also, in addition, impose private covenants restricting the number of dwellings. A copy of the proposed covenant(s) to be recorded with the State 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. The applicant shall subdivide a fifteen (15)-foot wide future road widening strip along the entire property frontage of Ainaola Drive, and shall dedicate to the County the future road widening strip within five (5) years from the effective date of this ordinance.
- G. All driveway connections to Ainaola Drive shall conform to Chapter 22, County Streets, of the Hawai'i County Code.
- H. All development-generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. If required, a drainage study shall be prepared and submitted to the Department of Public Works and any required

drainage improvements shall be constructed, meeting the approval of the Department of Public Works prior to Final Subdivision Approval.

- I. All earthwork and grading shall conform to Chapter 10, Erosion and Sediment Control of the Hawai'i County Code.
- J. The method of sewage disposal shall meet with the requirements of the Department of Health.
- K. A Solid Waste Management Plan shall be submitted to the Department of Environmental Management for review and approval prior to the issuance of Final Subdivision Approval.
- 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-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigative measures have been taken.
- M. If the applicant, successors, or assigns develops residential units on the subject property, the applicant shall make their 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 become due and payable prior to receipt of Final Subdivision Approval. The fair share contribution for each lot shall be based on the actual number of residential units developed. 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 combined value of **\$7,698.11** per multiple family residential unit (**\$11,996.63** per single family residential unit). The total amount shall be determined 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 (single family residential unit) shall be allocated as follows:

1. **\$3,797.26** per multiple family residential unit (**\$5,784.99** per single family residential unit) to the County to support park and recreational improvements and facilities;
2. **\$120.01** per multiple family residential unit (**\$279.07** per single family residential unit) to the County to support police facilities;
3. **\$369.17** per multiple family residential unit (**\$551.20** per single family residential unit) to the County to support fire facilities;
4. **\$164.54** per multiple family residential unit (**\$241.32** per single family residential unit) to the County to support solid waste facilities; and
5. **\$3,247.12** per multiple family residential unit (**\$5,140.06** per single family residential unit) to the County to support road and traffic improvements.

In lieu of paying the fair share contribution, the applicants 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.

- N. 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.
- O. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- 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 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.

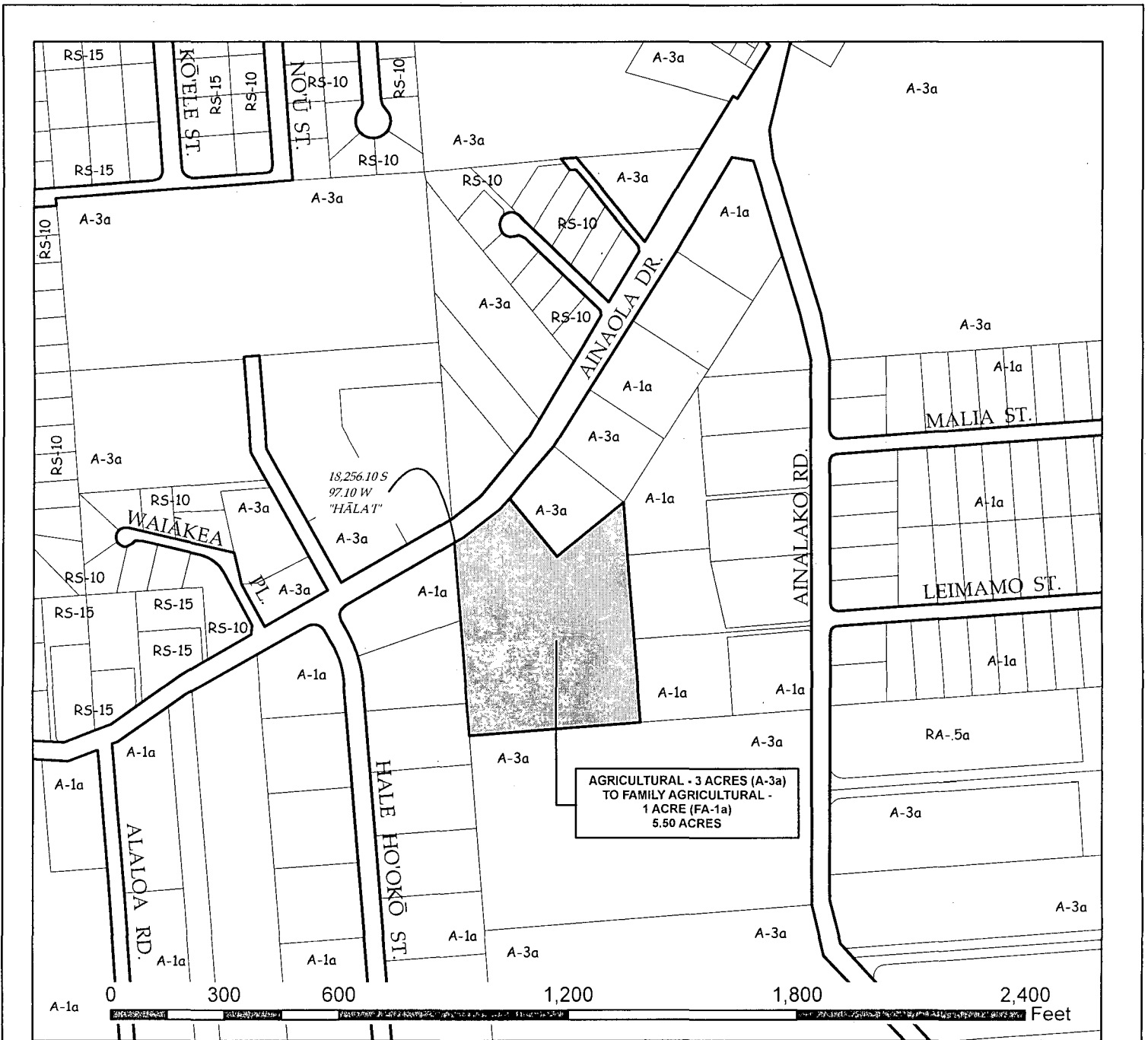
INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i

Date of Introduction: November 4, 2009
Date of 1st Reading: November 4, 2009
Date of 2nd Reading: November 18, 2009
Effective Date: December 3, 2009

REFERENCE: Comm. 556



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 1983 (2005 EDITION),
 BY CHANGING THE DISTRICT CLASSIFICATION FROM
 AGRICULTURAL - 3 ACRES (A-3a) TO FAMILY AGRICULTURAL - 1 ACRE (FA-1a)
 AT WAIĀKEA, SOUTH HILO, HAWAII

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

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

RECEIVED

Introduced By: Donald Ikeda
 Date Introduced: November 4, 2009
 First Reading: November 4, 2009
 Published: November 13, 2009

REMARKS: _____

Second Reading: November 18, 2009
 To Mayor: November 27, 2009
 Returned: December 3, 2009
 Effective: December 3, 2009
 Published: December 10, 2009

REMARKS: _____


ROLL CALL VOTE
 2009 DEC 3 PM 2 45
 COUNTY CLERK
 COUNTY OF HAWAII



	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann		X		
Ikeda	X			
Naeole			X	
Onishi	X			
Yagong	X			
Yoshimoto	X			
	7	1	1	0

ROLL CALL VOTE

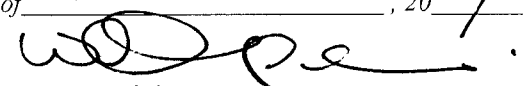
	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann		X		
Ikeda	X			
Naeole	X			
Onishi			X	
Yagong	X			
Yoshimoto	X			
	7	1	1	0

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 DEC 02 2009


 COUNCIL CHAIRMAN

 COUNTY CLERK

Bill No.: 155
 Reference: C-556/PC-48
 Ord No.: 09 149

Approved/Disapproved this 3rd day
 of December, 2009.

 MAYOR, COUNTY OF HAWAII

Ordinances Numbered 09-149, 09-150, 09-151, 09-152, & 09-153

I hereby certify that the following Ordinances passed second and final reading at the meeting of the County Council on November 18, 2009, by vote, as listed below:


Ordinance 09-149 (Bill 155): An Ordinance Amending Section 25-8-33 (City of Hilo Zone Map), Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), by Changing the District Classification From Agricultural – 3 Acres (A-3a) to Family Agricultural – 1 Acre (FA-1a) at Waiākea, South Hilo, Hawai'i, Covered by Tax Map Key: 2-4-031:008. AYES: Council Members Enriques, Ford, Greenwell, Ikeda, Naeole, Yagong, and Chair Yoshimoto – 7; NOES: Council Member Hoffmann – 1; ABSENT: Council Member Onishi – 1; EXCUSED: None.

Ordinance 09-150 (Bill 156): An Ordinance Amending the County of Hawai'i General Plan as Adopted by Ordinance No. 05-25 and Amended by Ordinance No. 06-153 by Amending Map 11 of the Land Use Pattern Allocation Guide Map by Changing the Land Use Designation From Urban Expansion to Open at Kealakehe, North Kona, Hawai'i. AYES: Council Members Enriques, Ford, Greenwell, Hoffmann, Ikeda, Naeole, Yagong, and Chair Yoshimoto – 8; NOES: None; ABSENT: Council Member Onishi – 1; EXCUSED: None.

Ordinance 09-151 (Bill 158): An Ordinance Amending Ordinance No. 09-65, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2009 to June 30, 2010. AYES: Council Members Enriques, Ford, Greenwell, Hoffmann, Ikeda, Naeole, Yagong, and Chair Yoshimoto – 8; NOES: None; ABSENT: Council Member Onishi – 1; EXCUSED: None.

Ordinance 09-152 (Bill 159): An Ordinance to Amend Ordinance No. 09-64, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2010. AYES: Council Members Enriques, Ford, Greenwell, Hoffmann, Ikeda, Naeole, Yagong, and Chair Yoshimoto – 8; NOES: None; ABSENT: Council Member Onishi – 1; EXCUSED: None.

Ordinance 09-153 (Bill 160, Draft 2): An Ordinance Authorizing the Issuance of General Obligation Bonds of the County of Hawai'i for the Purpose of Funding All or a Portion of the Costs of Various Improvement Projects for the Department of Water Supply; Fixing the Form, Denominations, and Certain Other Details of Such Bonds and Providing for Their Sale to the Public; and Authorizing the Taking of Other Actions Relating to the Issuance and Sale of the Bonds. AYES: Council Members Enriques, Ford, Greenwell, Hoffmann, Ikeda, Naeole, Yagong, and Chair Yoshimoto – 8; NOES: None; ABSENT: Council Member Onishi – 1; EXCUSED: None.


Kenneth G. Goodenow
County Clerk

(Hawai'i Tribune-Herald - December 10, 2009)
(West Hawai'i Today - December 10, 2009)

Note: The original Digest/Affidavit is attached to Ordinance 09-149.