

COUNTY OF HAWAI‘I PLANNING DEPARTMENT
RECOMMENDATION

HAWAII ISLAND COMMUNITY DEVELOPMENT CORPORATION
STATE LAND USE DISTRICT BOUNDARY AMENDMENT APPLICATION
(PL-SLU-2024-000011)

Upon careful review of the request, the Planning Director is recommending that a **favorable recommendation** for the State Land Use District Boundary Amendment be forwarded to the County Council. Since this recommendation is made without the benefit of public testimony, the Planning Director reserves the right to modify and/or alter this position based upon additional information presented at the public hearing. The favorable recommendation is based on the following findings:

The applicant is requesting a State Land Use District Boundary Amendment from an Agricultural to an Urban district for a 14.321-acre portion of a larger 237.5-acre parcel of land. The applicant has submitted concurrent requests for a Change of Zone from an Agricultural-1 Acre (A-1a) zoning district to a Single-Family Residential-10,000 square feet (RS-10) zoning district, and a Planned Unit Development (PUD) permit for various exceptions to the Subdivision Code.

If the requested land use entitlement changes are approved, the applicant proposes to develop a 43-lot, 100% affordable, single-family residential subdivision , with a minimum of 10,000-square foot lots and related improvements on the same land area. The proposed project will occur on two, non-contiguous areas as follows: 1) a 13.005-acre section that will support 39 lots and 2) a 1.316-acre section that will support 4 lots.

The approval of the reclassification from the State Land Use Agricultural to the Urban District for 14.321 acres of land will not be in violation of Section 205-2, Chapter 205, Hawai‘i Revised Statutes (HRS), nor will it be inconsistent with the Land Use Commission Rules, the County General Plan, and the Hawai‘i State Plan.

The proposed reclassification conforms with Section 205-2 of the Hawai‘i Revised Statutes, which states, “*Urban districts shall include activities or uses as*

provided by ordinances or regulations of the county within which the urban district is situated.”

The General Plan is intended to be used as a policy guide for the coordinated growth and development of all sectors of the County. It sets forth goals, policies, standards, and courses of action to accommodate growth without congestion, to designate and preserve the lands needed for residential use, commercial and visitor services, industry, agriculture, and open space, and to coordinate these uses with the County’s service and circulation systems. The overall goals, policies and standards are set forth to physically plan the lands in the County in the best interest of the island’s residents. Land use is one of the principal focal points of public concern and policy. The Land Use Element provides the primary basis for direct control and guidance of publicly and privately-owned resources. The proposed change of zone will be consistent with the following goals, policies, and standard of the Land Use-Single-Family Residential and Housing Elements of the General Plan:

- *Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County.*
- *Zoning request shall be reviewed with respect to General Plan designation, district goals, regional plans, State Land Use District, compatibility with adjacent zoned uses, availability of public services and utilities, access, and public need.*
- *Designate and allocate single-family residential zoned lands at varying densities for future use in accordance with the needs of the communities and he stated goals, policies, and standards.*
- *Seek sufficient production of new affordable rental and fee-simple housing in the County in a variety of sizes to satisfactorily accommodate the needs and desires of families and individuals.*
- *Encourage corporations and nonprofit organizations to participate in Federal, State and private programs to provide new and rehabilitated housing for low and moderate income families.*

The Land Use Pattern Allocation Guide (LUPAG) Map component of the General Plan is a representation of the document’s goals and policies to guide the coordinated growth and development of the County. It reflects a graphic depiction of the physical

relationship among the various land uses. The LUPAG Map establishes the basic urban and non-urban form for areas within the County. The LUPAG Map designates the subject property and project area as Rural (rur). The Rural designation includes existing subdivisions in the State Land Use Agricultural and Rural districts that have a significant residential component. Typical lot sizes vary from 9,000-square feet to two acres. These subdivisions may contain small farms, wooded areas, and open fields as well as residences. Allowable uses within these areas, with appropriate zoning, may include commercial facilities that serve the residential and agricultural uses in the area, and community and public facilities. The Rural designation does not necessarily mean that these areas should be further subdivided to smaller lots. Most lack the infrastructure necessary to allow further subdivision.

While the proposed reclassification to State Land Use Urban does not strictly align with this LUPAG Rural designation, it will facilitate the development of an affordable housing development that meets and extreme need and supports goals and policies of the GP and SKCDP related to increasing affordable housing.

The South Kohala Community Development Plan (SKCDP) was adopted by the Hawai'i County Council by Ordinance No. 08 159 on December 1, 2008. The subject property is not situated within any town or community plan area and has no special designations in the SKCDP. That said, the proposed development complies with several SKCDP goals, policies, and actions related to the provision of affordable housing, including:

- Provide affordable and workforce housing resources for low-and-moderate income individuals, families, and those residents of South Kohala with special needs.
- The South Kohala Community shall organize one or more community-based, non-profit entities that can partner with the County Office of Housing and Community Development and with other non-profit organizations and for-profit contractors and developers to provide affordable housing units.

The County shall provide more opportunities for low-income housing and transitional shelters.

- Construct more Self-help Housing. While this action plan is specific to affordable housing needs in Waimea, the provision of more self-help housing is needed all over the district. Policies and Actions

Based on the preceding, the approval of the reclassification of the project area to Urban, which would facilitate the development of the proposed affordable housing project is consistent with the SKCDP.

Finally, the reclassification action would be consistent with the following goals, objectives, and policies of the Hawai'i State Plan: 1) Convert marginal or non-essential agricultural lands for appropriate urban uses while maintaining agricultural lands of importance in the agricultural district; 2) Stimulate and promote feasible approaches that increase affordable rental and for sale housing choices for extremely low-, very low-, lower-, moderate-, and above moderate-income households; 3) Seek to use marginal or non-essential agricultural land, urban land, and public land to meet housing needs of extremely low-, very low-, lower-, moderate-, and above moderate-income households; and 4) Give higher priority to the provision of quality housing that is affordable for Hawai'i's residents and less priority to development of housing intended primarily for individuals outside of Hawai'i.

The following discussion includes how the proposed project will meet the standards for determining urban district boundaries under State Land Use Commission (LUC) Rules:

Urban Districts shall include lands characterized by “city-like” concentrations of people, structures, streets, urban level of services and other related land uses. The project area is unique in that much of the surrounding area would be characterized as more rural in nature with larger lot, rural residential subdivisions and vacant agricultural land surrounding it. However, LUC Rules provide an allowance to reclassify lands to the urban district that do not conform exactly to this “city-like” concentration standard if the lands are surrounded by or adjacent to existing urban development, and only when those lands represent a minor portion of the urban district. Based on the following discussion, the proposed boundary amendment to the urban district qualifies for this exception.

The proposed project area is situated within 400 feet of two, non-contiguous areas designated as Urban by the State Land Commission that are the location of two affordable housing developments, the Ouli Cottages project, consisting of 33 multiple-family, rental housing units built in 1995 and the Ouli Self Help Housing project, consisting of 40 lots developed between 1999 and 2004.

These properties are on lands that were reclassified from an Agricultural to an Urban District in 1994 and received relief from Hawai'i County zoning requirements in 1994 from the County Council as part of a HRS 201E affordable housing program (which is now called the HRS 201H program). The inclusion of the proposed 43-lot, affordable housing subdivision will expand this urban, affordable housing cluster.

The Urban classification conforms to the standard that the development is within reasonable proximity to centers of trading and employment and to basic services such as schools, police and fire protection, transportation systems and water. Additionally, the project area has access to basic services such as schools, parks, wastewater systems, solid waste disposal, drainage, water, transportation systems, public utilities, and police and fire protection.

The project area is situated in reasonable proximity to Waimea Town, approximately 7.5 miles to the east and to the South Kohala Resort area, approximately 9.4 miles to the west.

Public education options in reasonable proximity to this area include Waimea Elementary and Intermediate Schools, Kanu O Ka Āina New Century Public Charter School in Waimea, and Honoka'a High School. Private schools in the region include Hawai'i Preparatory Academy and Parker School in Waimea.

Police and fire protection, transportation systems and water availability are further discussed below.

Public beach parks in the area include Spencer Beach Park and the Hapuna Beach Park located 4.5 and 6.5 miles away, respectively. Other recreation areas in the vicinity include the Spencer Kalani Schutte District Park and the Waimea Community Park about 7.5 miles from the property.

Proposed access to the subject properties is from Waiula Drive, a County-owned and maintained, two-lane roadway with 50-foot-wide pavement (12-foot-wide travel lane and 13-foot-wide paved shoulders) within a 50-foot-wide right-of-way. A condition of approval of the concurrent change of zone request will require the applicant to comply with DPW requirements for connection to and work within the County right-of-way.

There is a secondary emergency vehicular access through a gate at the eastern terminus of Waiula Drive at the Anekona Subdivision, which connects to Kanehoa Street. This road offers an additional route to Kawaihae Road for emergencies. The gate can be opened by the Fire Department or Civil Defense during emergencies.

Internal project roadways will be built to standards allowed by the concurrent PUD approval that will provide sufficient roadway and pedestrian facilities while helping the applicant defray infrastructure costs in developing the proposed affordable residential subdivision.

A Traffic Impact Analysis Report (TIAR) submitted with the application concludes that the development will not significantly impact traffic operations on nearby facilities and intersections, thus no mitigation is recommended.

Water can be made available to the site to support the proposed affordable housing project. Wastewater will be served by individual wastewater systems meeting the approval of the State Department of Health).

Police and medical services are located in Waimea, approximately 7.5 miles away. There is a volunteer fire station located at the top of Waiula Drive, adjacent to the project site. The nearest manned fire and emergency services stations are also in Waimea and near the South Kohala resort area, approximately 7.5 and 9.4 miles away, respectively. All other essential utilities can be made available to the property.

There are no severe geological or topographical problems which cannot be properly rectified, or which would render the land unusable. According to the Federal Emergency Management Agency the project area is designated as Zone “X”, which is an area determined to be an area of minimal flood hazard. While the larger property upon which the project area sits consists of undulating topography, the planned development sites for residential uses were sited on more gently sloping areas. The

topography of the project site gradually slopes from north to south with less than a 4% slope. The property is located approximately 3.6 miles from the nearest shoreline and is not situated within the Special Management Area, the tsunami inundation area or evacuation area.

Conditions of approval of the concurrent Change of Zone application will require that all development-generated runoff will be disposed of on site and not directed toward any adjacent properties and that all earthwork activity, including grading and grubbing, will conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code. Thus, the reclassification meets the standard which states that the lands included within the urban district, *"...shall be those with satisfactory topography and drainage and reasonably free from the danger of floods, tsunami and unstable soil conditions and other adverse environmental effects."*

The subject property is located within the State Land Use Agricultural District and the County's Agricultural 1-Acre (A-1a) zoned district; however, it is not considered prime or important agricultural land by the State. The subject property has been cleared in the past and historically used for cattle grazing but is currently vacant of any agricultural uses. The State of Hawai'i Agricultural Lands of Importance to the State of Hawai'i (ALISH) Map classifies the subject property as "Unclassified" land. The Land Study Bureau (LSB) classifies the project site and much of the larger parcel as "E" or "Very Poor" soils. The U.S.D.A. Soil Survey classifies the soils within the subject property as Pu'u Pa extremely stony very fine sandy loam, 6 to 20 % slopes (PVD). Permeability is rapid, runoff is medium, and the erosion hazard is moderate. Roots penetrate to the fragmental A'a lava. This soil type is used for pasture. Based on the preceding, the the reclassification of this 14.321 acres of land from the Agricultural to the Urban State Land Use district will not be detrimental to the reduction of this area from the agricultural land inventory in the County of Hawai'i.

The Hawai'i Right to Farm Act, HRS Chapter 165, was enacted to protect farming operations on land in the State Land Use Agricultural District when adjacent land is reclassified out of the Agricultural District. A condition of approval will require

the applicants to notify prospective purchasers, tenants, or lessees of the Hawai‘i Right to Farm Act.

The request will not have a significant adverse impact to traditional and customary Hawaiian Rights. In view of the Hawai‘i State Supreme Court’s “PASH” and “*Ka Pa‘akai O Ka‘Aina*” decisions, the issue relative to native Hawaiian gathering and fishing rights must be addressed in terms of the cultural, historical, and natural resources and the associated traditional and customary practices of the site.

Investigation of valued resources: An Archaeological Inventory Survey (AIS) entitled, “*Archaeological Inventory Survey of TMK: (3) 6-2-001: 075 portion, Ouli Ahupua‘a, South Kohala District, Island of Hawai‘i*” was produced by Ogden Environmental and Energy Services, Co., Inc. in 1990, revised in 1993 and approved by SHPD in 1994. The AIS was originally created for the evaluation of the Waikoloa Maneuver Area, a 91,000-acre area used for military training exercises during World War II, which includes the proposed project area.

Additionally, the applicant submitted a Cultural Impact Assessment (CIA) entitled, “*Cultural Impact Assessment TMK: (3) 6-2-001: 075 portion, ‘Ouli Ahupua‘a, South Kohala District, Island of Hawai‘i*” prepared by Kulaiwi Archeology, LLC and dated July 2024. This CIA covered the proposed project area.

Finally, the applicant submitted a professional floral/faunal survey entitled, “*Biological Survey of the Ouli Lands, TMKs 6-2-1: 74 and 75 South Kohala District, Island of Hawai‘i*” prepared by Geometrician Associated LLC in August 2023. This study covered 257.338 acres of land, including the proposed project area.

The valued cultural, historical, and natural resources found in the project area: The AIS identified 75 sites in the 91,000-acre study area, including sites related to military training, ranching, historic period use, and traditional Hawaiian use. Nine (9) of these sites were recommended for further work, including 2 historic sites and a burial site located approximately ½ mile away from the project area. A preservation plan and a burial treatment plan for the sites were approved by the State Historic Preservation Division in 2001 and 2003 respectively. There were no historic sites identified within the project area.

The CIA found that traditional Hawaiian activities in the area were primarily shoreline-based and seasonal, upland areas served as transit zones, with trails historically maintained by local families for access to coastal resources. The area, known as a dry and arid land (‘Āina kaha), was later influenced by the sandalwood trade and, more substantially, by 19th-century ranching activities connected to Parker Ranch, as well as World War II military training in the Waikoloa Maneuver Area. Despite these historical activities, the CIA identified no significant cultural practices or traditional resources directly within the project’s Area of Potential Effect (APE). It concluded that the proposed development would not interfere with known cultural resources, as the land itself had no direct ties to ongoing Hawaiian practices, though standard protocols would apply if any cultural resources were inadvertently discovered during construction.

Finally, the Biological Study found that the area is dominated by non-native plant species and that no rare, threatened, or endangered plant species were identified during the survey as the habitat is considered unsuitable for such species. The presence of invasive species like tree tobacco, which supports the endangered Blackburn’s sphinx moth, requires careful management to prevent its spread.

Faunal resources included 14 bird species, most of which were non-native, except for a single pueo (Hawaiian short-eared owl) sighting. Feral mammals such as cats, goats, and cattle were observed, all of which are detrimental to the native ecosystem. Although the endangered Hawaiian hoary bat may use the area for seasonal foraging and roosting, no sightings were confirmed during the survey. Invertebrate species like the endangered, yellow-faced bee are unlikely to inhabit the property due to insufficient habitat conditions.

Possible adverse effect or impairment of valued resources: As there are no archaeological, historical or cultural resources identified within the proposed project area, no such resources are anticipated to be adversely affected or impaired.

While there were no federally listed or endangered species identified within the project area, Hawaiian sea birds and the Hawaiian Hoary Bat have the potential to transit the area thus proposed development has the potential to impact these species. Finally, the

presence of the tree tobacco plant on the property can serve to attract the endangered Blackburn's sphinx moth.

Feasible actions to protect native Hawaiian rights: As stated above, there were no identified native Hawaiian rights being exercised within the project area. Thus, to the extent to which traditional and customary native Hawaiian rights are exercised, the proposed action will not affect traditional Hawaiian rights; therefore, no action is necessary to protect these rights.

However, a condition of approval will be added to the associated change of zone approval to address and protect inadvertent finds should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered.

Finally, to mitigate impacts on potential listed or endangered species that may transit or be attracted to the project area, conditions will be added to the associated change of zone approval. Mitigation measures include controlling invasive species, protecting native fauna during critical breeding seasons, and shielding outdoor lighting to prevent disorientation of seabirds.

Based on the preceding, the approval of the State Land Use Boundary Amendment from the Agricultural to the Urban District complements the State Land Use District Regulations and County General Plan and is supportive of the Hawai'i State Plan.

The accompanying draft bill to amend the State Land Use District Boundary Map is provided for your favorable consideration. Please note the proposed conditions of approval attached to the draft bill.

2. 215° 49' 42" 223.52 feet;

3.	313°	50'	326.51	feet along the remainder of Lot D, along the remainder of R.P. 2237, L.C. Aw. 8518-B, Ap. 1 to James Young Kanehoa;
4.	43°	50'	118.84	feet along the remainder of Lot D, along the remainder of R.P. 2237, L.C. Aw. 8518-B, Ap. 1 to James Young Kanehoa;
5.	326°	31'	108.98	feet along the same;
6.	290°	50'	202.87	feet along the same;
7.	232°	00'	137.76	feet along the same;
8.	316°	19'	540.37	feet along the same;
9.	327 °	16'	142.01	feet along the same;
10.	57°	51'	159.53	feet along the same;
				Thence along the same on a curve to the left with a radius of 833.00 feet, the chord azimuth and distance being:
11.	51°	46'	21"	176.39 feet;
12.	147°	51'	162.67	feet along the remainder of Lot D, along the remainder of R.P. 2237, L.C. Aw. 8518-B, Ap. 1 to James Young Kanehoa;
13.	137°	51'	42.56	feet along the same;
14.	110°	50'	442.33	feet along the same;
15.	115°	50'	89.41	feet along the same;
16.	123°	50'	92.40	feet along the same;
17.	131°	50'	89.85	feet along the same;
18.	145°	31'	170.00	feet along the same;

19.	106°	26'		287.91	feet along the same;
20.	196°	26'		183.00	feet along the same;
21.	287°	16'	30"	0.70	feet along the same;
22.	197°	16'	30"	140.57	feet along the same, to the point of beginning and containing an area of 13.005 Acres.

PROJECT LOT 2

Beginning at the Southwest corner of this parcel of land, the direct azimuth and distance to the Northeast corner of Lot 6 being 106° 25' 44" 2,185.73 feet, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PA" being 11,277.32 feet North and 20,030.88 feet West thence running by azimuths measured clockwise from true South:

1.	201°	25'		181.24	feet along the remainder of Lot D, along the remainder of R.P. 2237, L.C. Aw. 8518-B, Ap. 1 to James Young Kanehoa;
					Thence along the same on a curve to the left with a radius of 666.00 feet, the chord azimuth and distance being:
2.	287°	46'		84.80	feet;
					Thence along the same on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being:
3.	237°	13'		29.21	feet;
4.	190°	19'		1.00	feet along the remainder of Lot D, along the remainder of R.P. 2237, L.C. Aw. 8518-B, Ap. 1 to James Young Kanehoa;
					Thence along the same on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being:
5.	147°	13'	10"	27.33	feet;

					Thence along the Waiula Drive on a curve to the left with a radius of 625.00 feet, the chord azimuth and distance being:
6.	282°	01'	06"	45.89	feet;
					Thence along the same on a curve to the left with a radius of 1,025.00 feet, the chord azimuth and distance being:
7.	279°	01'	07"	32.05	feet;
					Thence along the remainder of Lot D, along the remainder of R.P.2237, L.C. Aw. 8518-B, Ap. 1 to James Young Kanehoa on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being:
8.	54°	13'	11"	27.74	feet;
9.	10°	19'		1.00	feet along Waiula Drive ;
					Thence along the remainder of Lot D, along the remainder of R.P. 2237, L.C. Aw. 8518-B, Ap. 1 to James Young Kanehoa on a curve to the left with a radius of 20.00 feet, the chord azimuth and distance being:
10.	324°	13'	15"	28.82	feet;
					Thence along the same on a curve to the left with a radius of 1,066.00 feet, the chord azimuth and distance being:
11.	275°	24'	45"	100.90	feet;
12.	2°	42'		188.00	feet;
13.	94°	42'		75.20	feet;
14.	98°	42'		80.41	feet;

- | | | | |
|-----|----------|-------|---|
| 15. | 102° 42' | 80.41 | feet; |
| 16. | 111° 25' | 92.67 | feet along the same, to the point of beginning and containing an area of 1.316 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:

SEE ATTACHED CONDITIONS

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:

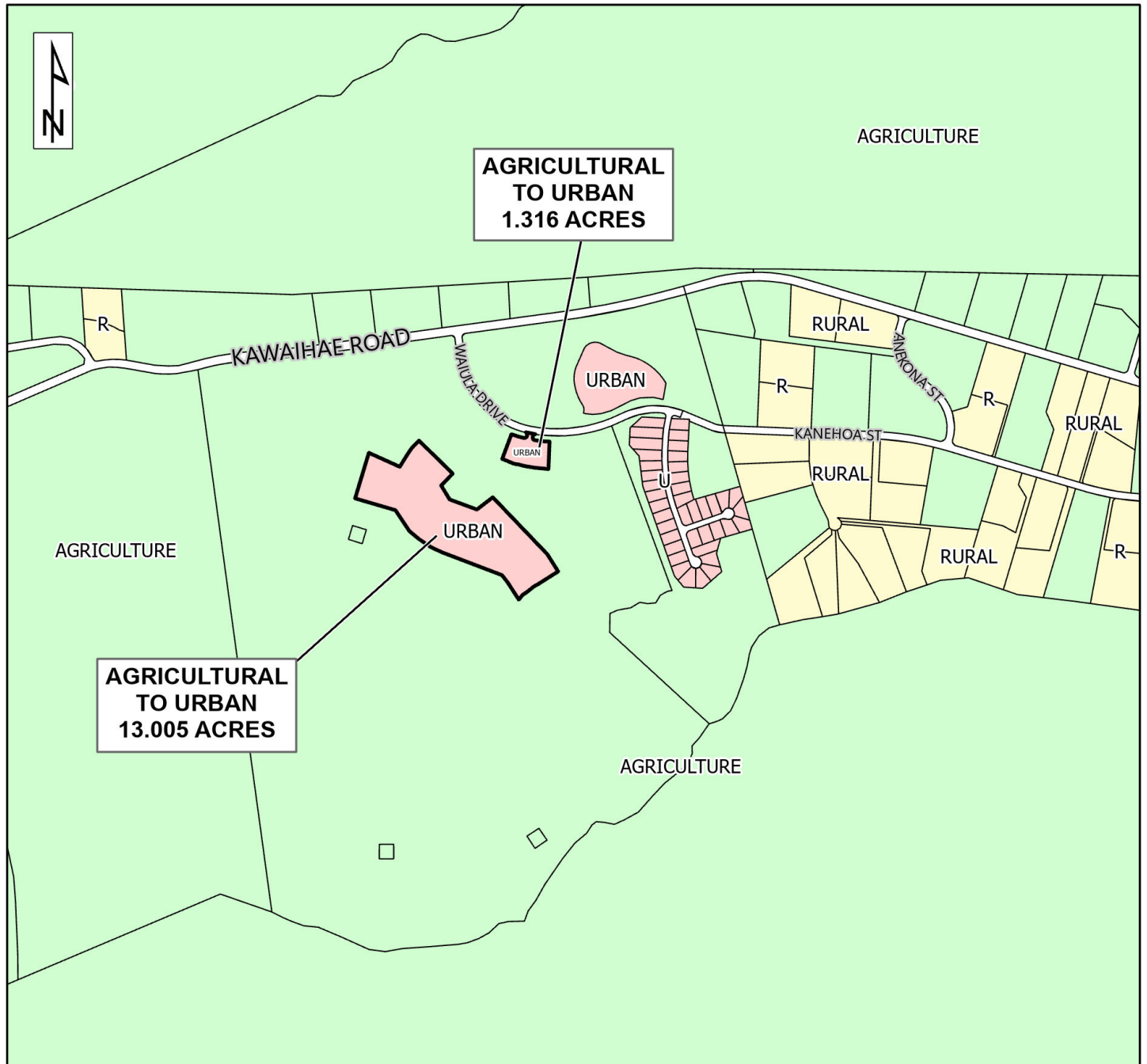
COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i

Date of Introduction:
Date of 1st Reading:
Date of 2nd Reading:
Effective Date:

HAWAII ISLAND COMMUNITY DEVELOPMENT CORPORATION
STATE LAND USE DISTRICT BOUNDARY AMENDMENT (PL-SLU-2024-000011)
CONDITIONS OF APPROVAL

- A. The applicant, successors, or assigns shall notify prospective purchasers, tenants, or lessees of all lots that farming operations and practices on adjacent or contiguous land in the State Land Use Agricultural District are protected under Hawai‘i Revised Statutes Chapter 165, the Hawai‘i Right to Farm Act. This notice shall be included in any disclosure required for the sale or transfer of all of the proposed lots.
- B. Any action that would interfere with or restrain farming operations on adjacent or contiguous properties shall be prohibited under Hawai‘i Revised Statutes Chapter 165, the Hawai‘i Right to Farm Act; provided the farming operations are conducted in a manner consistent with generally accepted agricultural and management practices on adjacent or contiguous lands in the Agricultural District.



AMENDMENT TO THE STATE LAND USE BOUNDARIES MAPS

AMENDING THE STATE LAND USE BOUNDARIES MAP
FOR THE COUNTY OF HAWAI'I, BY CHANGING THE DISTRICT CLASSIFICATION
FROM THE AGRICULTURAL DISTRICT TO THE URBAN DISTRICT
AT 'ŌUILI, SOUTH KOHALA, HAWAI'I

MAP PREPARED BY:
COUNTY OF HAWAI'I, PLANNING DEPARTMENT

TMK: (3) 6-2-001:075

DATE: September 4, 2024

EXHIBIT "A"

James Young Kanehoa
Map: