

COUNTY OF HAWAI‘I PLANNING DEPARTMENT
RECOMMENDATION

HAWAII ISLAND COMMUNITY DEVELOPMENT CORPORATION
CHANGE OF ZONE APPLICATION (PL-REZ-2024-000066)

Upon careful review of the request against the guidelines for granting a change of zone, the Planning Director is recommending that a **favorable recommendation** 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 for approximately 14.321 acres of land be forwarded to the County Council. Since this recommendation is made without the benefit of public testimony, the Director reserves the right to modify and/or alter this recommendation based upon additional information presented at the public hearing. This favorable recommendation is based on the following findings:

The applicant is requesting to change the zoning district from an Agricultural-1 acre (A-1a) to a Single-Family Residential-10,000 square feet (RS-10) zoning for a 14.321-acre portion of a larger 237.5-acre parcel of land. The proposed RS-10 zoning would allow a maximum density of 62 lots. However, the applicant proposes to develop a 43-lot, 100% affordable, single-family residential subdivision, with a minimum of 10,000 square foot lots. The proposed project will occur on two, non-contiguous areas as follows: 1) a 13.005-acre section that will support 39 lots (hereinafter ‘Project Lot 1’); and 2) a 1.316-acre section that will support 4 lots (hereinafter ‘Project Lot 2’).

The applicant has concurrently requested a State Land Use District Boundary Amendment from an Agricultural to an Urban District and Planned Unit Development (PUD) permit for the same land area that would allow various exceptions from Chapter 23 (Subdivision) of the Hawai‘i County Code related to roadway right-of-way and pavement widths, roadways grades and curves, the requirement for dedicable streets, requirements for sidewalks, curbs and gutters, and drainage, flood, and erosion mitigation measures.

The subdivision code exceptions requested in the concurrent PUD request would allow project roadways within Project Lot 1 to be developed with paved shoulders, swales, and driving lanes equal to the width of the right-of-way of 50 feet and 66 feet. No curbs, gutters and sidewalks will be provided. For Project Lot 2, access would be provided by a 40-foot-wide right-of-way with each leg being no longer than 150 feet. This would be sufficient for a fire truck to reverse and exit the site if they are called on in the event of a fire. Drainage would be handled by swales that feed into seepage pits through the project area rather than standard drywells. The applicant proposes that all these roads and the drainage system be dedicated to the County of Hawai‘i.

The change of zone request along with concurrent State Land Use Boundary Amendment and PUD applications are necessary to facilitate the 43-lot subdivision to provide building sites for the HICDC self-help and turnkey housing program for low to moderate income households all of which will meet the County of Hawai‘i’s affordable housing guidelines. HICDC’s intent is to provide as many self-help homes as possible given federal funding limitations. Turnkey homes would be suitable for households unable to provide the required self-help labor or due to their incomes being above 80% of the area median income, which is the upper limit for the self-help program. Turnkey homes will be sold at prices affordable to households up to 140% of the area median income.

Should the proposed entitlements be approved in 2024; the applicant will promptly file the subdivision application with the Planning Department. Anticipated completion of the subdivision is expected within 5 years from the date of approval of the land use entitlements, or by the end of 2029. According to the applicant, the project is estimated to cost \$20 million.

In order to consider an area for any type of zoning designation, the applicable goals, policies, and standards of the General Plan must be adequately addressed. It is only through such a comprehensive policy analysis approach that evaluations and decisions can be made to better time and stage developments to achieve growth determined by the General Plan and related planning documents. The implications of these evaluations and

decisions must also be considered as they may have an impact on similar areas in the County.

The Change of Zone request from Agricultural-1 Acre (A-1a) to Single-Family Residential 10,000 square feet (RS-10) conforms to the goals, policies and standards of the General Plan and the South Kohala Community Development Plan (CDP). 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 the 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 in 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.*

Based on the preceding, the approval of the change of zone to RS-10, which would facilitate the development of the proposed affordable housing project, is consistent with the SKCDP.

The Waimea Landmark Estates Subdivision which is zoned Agricultural-3 Acres (A-3a) is located across Kawaihae Road to the north. Properties to the east consist of the Kanehoa and Anekona Estates subdivisions, with lands zoned Agricultural-5 Acres (A-5a) and Residential and Agricultural-2 acres (RA-2a). Directly to the south is a large, State-owned parcel of land zoned Agricultural-5 Acres (A-5a) and to the west is a vacant parcel, also owned by the applicant and similarly zoned Agricultural-1 Acre (A-1a).

It should be noted that immediately to the east of the proposed project area are 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 Agricultural to an Urban 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), thus, they are still zoned Agricultural-1 Acre (A-1a).

Additionally, this rezone, along with an approved PUD, will allow the applicant to defray infrastructure costs associated with typical subdivision requirements in order to ensure that 100% of the proposed lots would be offered at affordable rates to prospective buyers. This will be done through an affordable housing agreement between the applicant and the County Office of Housing and Community Development pursuant to Chapter 11 of the Hawai'i County Code, that will be executed prior to receipt of Final Subdivision Approval for any portion of the project. The preceding will be added as a condition of

approval. To further help defray costs and increase affordability of the project, a condition of approval will be added to exempt fair share contributions for any lots created under the affordable housing agreement for self-help or turnkey affordable housing.

Based on the preceding, the proposed RS-10 zoning conforms to the goals, policies and standards of the General Plan and the South Kohala Community Development Plan.

All utilities and services are available to the site.

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 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 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 roadways will be built to non-dedicable standards as outlined in the concurrent PUD request and the applicant proposes to dedicate the roadways to the County once constructed.

Despite the preceding, DPW recommends that the applicant provide improvements to project street frontages, including but not limited to concrete sidewalks, drainage improvements, and any required utility relocation, meeting with the requirements of the Americans with Disabilities Act. Thus, while DPW supports some of the deviations from subdivision code requested in the PUD application (grades and curves, alternative pavement design/thickness, and shallow drainage facilities) but does not support relief from minimum right-of-way and pavement widths and relief from the requirements of curbs, gutters, and sidewalks. If these exceptions are granted, DPW is not willing to accept dedication of the roadways as they would not meet dedicable roadway standards.

Section 25-2-46 (d) (1) of the Zoning Code requires a Traffic Impact Analysis Report (TIAR) for rezoning applications that could generate 50 or more peak hour trips.

While the proposed 43-lot project does not meet this threshold, the applicant voluntarily submitted a TIAR, completed in January 2024. The report, prepared by a Traffic Management Consultant, analyzes current and future traffic conditions at two key intersections: Kawaihae Road/Waiula Drive and the internal roadway/Waiula Drive intersection. It notes that Kawaihae Road currently experiences significant traffic during peak hours, while Waiula Drive sees much lower volumes.

The TIAR projects the proposed development will add 35 AM and 45 PM peak-hour trips. By 2028, traffic conditions at the Kawaihae Road/Waiula Drive intersection are expected to remain stable, with the Level of Service (LOS) remaining “B” and the left-turn movement maintaining an “A” rating. However, by 2043, Waiula Drive’s LOS is predicted to drop to “C,” which is well above the LOS “E” and “F” that the Zoning Code deems unacceptable, thus no significant traffic mitigation is recommended, as the project is not expected to significantly affect overall traffic operations.

Water will be available for the proposed 43-lot subdivision from the Department of Water Supply’s (DWS) transmission system coming down Kawaihae Road and connecting to Waiula Drive. The 8-inch line within the Waiula Drive right of way is looped with the DWS system in the Anekona Subdivision. According to the applicant and the Department of Water Supply (DWS), the project currently has 35 water commitments and an additional 8 water commitments will be made available to support the proposed 100% affordable housing project.

The applicant will be required to follow DWS procedures for securing the additional 8 water commitments, pay water facilities charges and construct water system improvements meeting with the requirements of DWS prior to receipt of final subdivision approval. The preceding will be added as conditions of approval.

There is no County sewer system in the area, thus lot owners will need to construct individual septic wastewater systems meeting with the approval of the Department of Health. There is no municipal waste collection service in the County. According to the applicant, solid waste will be either be handled by commercial haulers who will dispose of the refuse at authorized landfill sites or by homeowners at the nearest solid waste transfer station.

The concurrency section of the Zoning Code requires any change of zone proposing 25 or more residential units to provide a civil defense siren unless existing civil defense sirens, as determined by the State Civil Defense, are available to provide adequate warning coverage across the entire project site. Based on the proposed 43-lot subdivision and the absence of a Civil Defense siren covering the property, the applicant will be required to install a siren as a condition of approval.

Electrical, telephone and internet services are available to the project site. 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.

There are no severe geological or topographical problems which cannot be properly rectified, or which would render the land unusable. The subject, 237.5-acre parcel is irregularly shaped with an undulating terrain, gently sloping from north to south. The 14.321-acre project area consists of two non-contiguous areas of 13.005 acres and 1.316 acres respectively situated near Waiula Drive. These areas were selected to take advantage of relatively flat terrain for ease of subdivision development.

The property is situated approximately 3.6 miles from the nearest shoreline and thus not situated within the tsunami inundation area or evacuation area.

According to the Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency (FEMA), The majority of the project site is situated within Flood Zone “X,” which is determined by FEMA to be an area of minimal flood hazard

According to the Department of Public Works – Engineering Division, all development generated runoff shall be disposed of onsite and not be directed toward any adjacent properties. A drainage study shall be prepared by a licensed civil engineer and submitted to the Department of Public Works prior to the 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 the construction of any proposed structures on the property. The applicant will also be required to comply

with the County Flood Code and Erosion and Sedimentation Code. The preceding will be added as conditions of approval.

The subject request is not contrary to Chapter 205A, Hawai‘i Revised Statutes, relating to Coastal Zone Management. The property is not located in the Special Management Area. The subject property is located more than three miles from the shoreline approximately 3.6 miles from the nearest shoreline and will not be impacted by coastal hazard and beach erosion. There is no record of a designated public access to the shoreline or mountain areas that traverses the project area. As discussed in the cultural resources section below, below, the project area is not known to have been used in the recent past for the gathering of plants by Native Hawaiians. The applicant has not observed any Native Hawaiians on the site or adjoining properties gathering plants and there is no evidence of any traditional and customary Native Hawaiian rights being practiced on the site, nor existence of any known valued cultural, historical, or native resources in the area.

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 Auhupua‘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, ‘Ōuli 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, a condition will be added to mitigate impacts on potential listed or endangered species that may transit or be attracted to the project area.

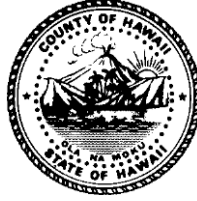
Lastly, this approval is made with the understanding that the applicant remains responsible for complying with all other applicable governmental requirements in connection with the approved use, prior to its commencement or establishment upon the subject property. Additional governmental requirements may include the issuance of building permits, the installation of approved wastewater disposal systems, compliance with the Fire Code, installation of improvements required by the American with

Disabilities Act (ADA), compliance with DLNR-SHPD requirements, among many others. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.

Based on the preceding findings, approval of this Change of Zone from an Agricultural-1 acre (A-1a) to a Single-Family Residential-10,000 Square Feet (RS-10) zoning district would result in an appropriate land use pattern that will further benefit the general public.

The accompanying draft bill to amend Section 25-8-7 (North and South Kohala District Zone Map), Chapter 25 (Zoning Code) of the Hawai'i County Code, is provided for your favorable consideration. Please note the proposed conditions of approval attached to the draft bill.

COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. _____ BILL NO. _____
(Planning Dept.)

AN ORDINANCE AMENDING SECTION 25-8-7 (NORTH AND SOUTH KOHALA DISTRICT ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING) OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL -1 ACRE (A-1a) TO SINGLE FAMILY RESIDENTIAL -10,000 SQUARE FEET (RS-10) AT 'ŌULI, SOUTH KOHALA, HAWAI'I, COVERED BY TAX MAP KEY: 6-2-001: 075 (POR.).

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

SECTION 1. Section 25-8-7, Article 8, Chapter 25 (Zoning) of the Hawai'i County Code 1983 (2016 Edition, as amended) is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Ōuli, South Kohala, Hawai'i, shall be Single Family Residential – 10,000 Square Feet. (RS-10)

PROJECT LOT 1

Beginning at the Northwest corner of this parcel of land, the direct azimuth and distance to the Northeast corner of Lot 6 being 116° 09' 05" 1,312.11 feet, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU PA" being 11,317.19 feet North and 20,949.57 feet West thence running by azimuths measured clockwise from true South:

1.	294° 06'	232.45	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;
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					Thence along the same on a curve to the right with a radius of 767.00 feet, the chord azimuth and distance being:
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. In accordance with Section 25-8-7, Article 8, Chapter 25 (Zoning), of the Hawai'i County Code 1983 (2016 Edition, as amended), 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.

SEE ATTACHED CONDITIONS

SECTION 3. Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

COUNCIL MEMBER, COUNTY OF HAWAI'I

_____, Hawai'i
Date of Introduction:
Date of 1st Reading:
Date of 2nd Reading:
Effective Date:

HAWAII ISLAND COMMUNITY DEVELOPMENT CORPORATION
CHANGE OF ZONE APPLICATION (PL-REZ-2024-000066)
CONDITIONS OF APPROVAL

- A. The applicant(s), its successor(s), or assign(s) (“Applicant”) shall be responsible for complying with all of the stated conditions of approval.
- B. The Applicant shall construct necessary water system improvements as required by the Department of Water Supply.
- C. Final Subdivision Approval shall be secured within five (5) years from the effective date of this ordinance. The time during which required plans, reports, studies, or relevant permit applications are under review for approvals by government agencies shall not count towards the deadline established in the ordinance. To justify this tolling, the applicant shall provide evidence of the excluded time period to the Planning Department for its review and approval, which shall consist of dates obtained from a government agency website, permitting program, or office indicating when the required plans, reports, studies, or permit applications were submitted, approved, denied, or returned by the government agency. Any request for tolling shall be verified and approved in writing by the director prior to the deadline established by the ordinance. The director shall notify the council of any approval of a request for tolling within thirty days of such approval. If any conditions have not been completed by the deadline, or if a time extension request has not been submitted in accordance with section 25-2-44(c), of the Hawai‘i County Code, the Planning Department shall inform the applicant that the ordinance is null and void without further action by the County. In that event, the zoning designation of the property affected by the ordinance shall automatically revert to its immediate prior zoning designation.
- D. All subdivision roadway connections and construction within the Waiula Drive right-of-way shall conform to Chapter 22, County Streets, of the Hawai‘i County Code and include the provision of adequate sight distances, shall meet with the approval of the Department of Public Works, engineering division.
- E. All development generated runoff shall be disposed of on site and shall not be directed toward any adjacent properties. A drainage study shall be prepared by a professional civil

engineer licensed in the State of Hawai‘i and submitted to the Department of Public Works. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to receipt of Final Subdivision Approval.

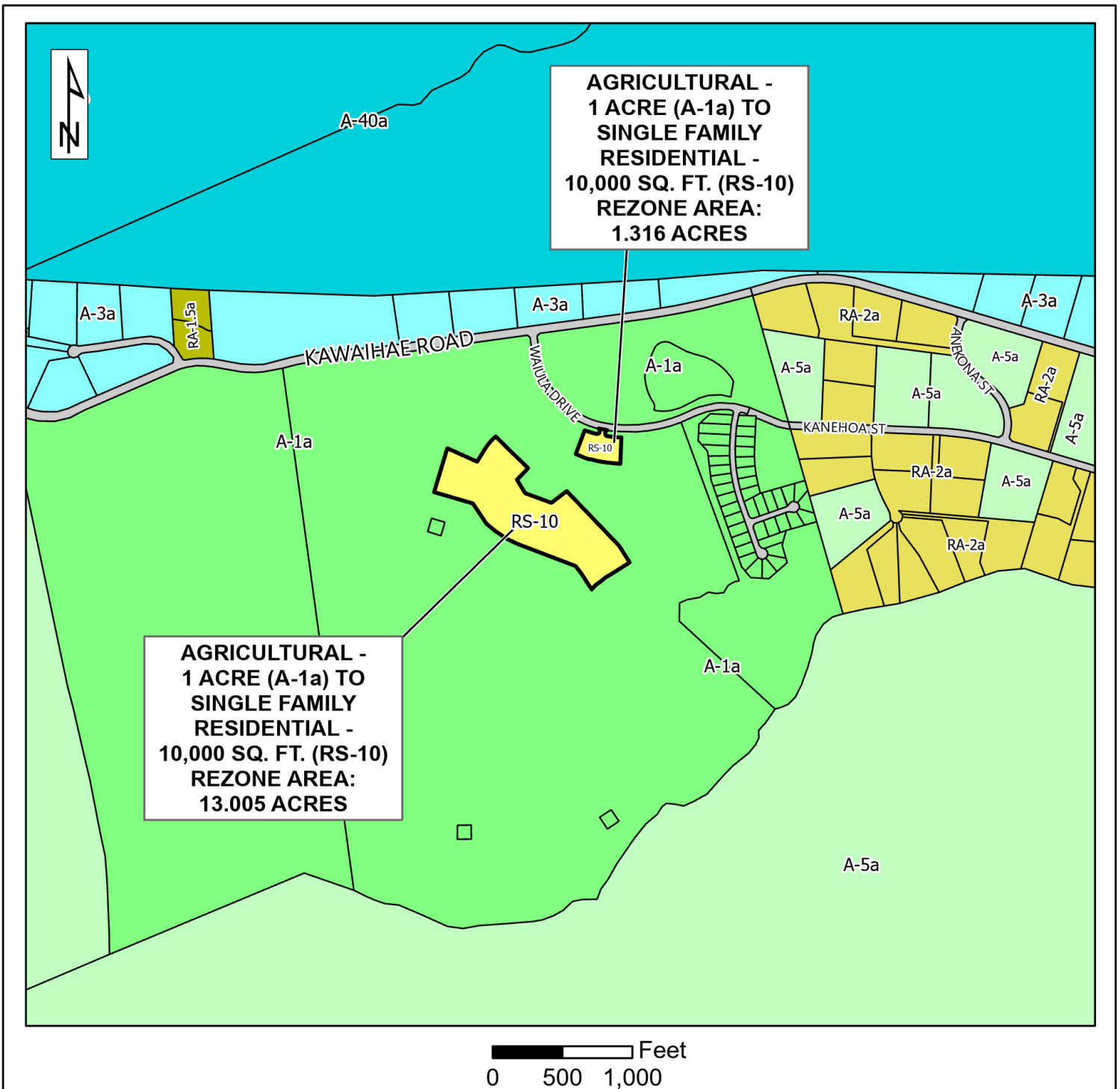
- F. The Applicant shall comply with Chapter 27, Flood Control, of the Hawai‘i County Code.
- G. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai‘i County Code.
- H. A National Pollutant Discharge Elimination System (NPDES) permit and an Underground Injection Control (UIC) permit, if required, shall be secured from the State Department of Health before the commencement of construction activities.
- I. The method of sewage disposal shall meet with the requirements of the Department of Health.
- J. In the event that surface or subsurface historic resources, including human skeletal remains, structural remains (e.g., rock walls, terraces, platforms, etc.), cultural deposits, marine shell concentrations, sand deposits, or sink holes are identified during the demolition and/or construction work, the Applicant shall cease work in the immediate vicinity of the find, protect the find from additional disturbance and contact the State Historic Preservation Division at (808) 933-7651. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
- K. Should any state or federally listed or endangered species be found on the subject property, the Applicant shall comply with all applicable requirements of Department of Land and Natural Resources- Division of Forestry and Wildlife and/or the United States Fish and Wildlife Service.
- L. Pursuant to Concurrency requirements (Section 25-2-46(o)), of the Hawai‘i County Code the applicant shall provide a civil defense siren and associated maintenance access easements within the project area as required by the State Civil Defense prior to issuance of a Certificate of Occupancy for any phase of the project.

- M. As represented by the Applicant, 100% of the proposed 43-lot single-family residential project shall be set aside for affordable housing, in accordance with mutually agreeable terms between the Applicant and the County Office of Housing and Community Development, using the provisions of Chapter 11, Article 1, Hawai‘i County Code relating to Affordable Housing Policy. Said agreement shall be executed prior to receipt of Final Subdivision Approval and a copy of the executed agreement shall be provided to the Planning Department by the Applicant. Should the affordable housing subdivision not be developed as represented, the Applicant shall comply with the requirements of Chapter 11, Article 1, Hawai‘i County Code relating to Affordable Housing Policy.
- N. The Applicant shall make its fair share contribution to mitigate the potential regional impacts of the development 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 newly created lot shall be based on the actual number of residential lots 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 **\$17,171.48** per single family residential unit. The total amount shall be determined by the actual number of newly created lots according to the calculation and payment provisions set forth in this condition. The fair share contribution per single family residential unit shall be allocated as follows:
1. **\$8,280.39** per single family residential unit to the County to support park and recreational improvements and facilities;
 2. **\$399.45** per single family residential unit to the County to support police facilities;
 3. **\$788.96** per single family residential unit to the County to support fire facilities;
 4. **\$345.41** per single family residential unit to the County to support solid waste facilities; and

5. **\$7,357.27** per single family residential unit to the County to support road and traffic improvements.

In lieu of paying the fair share contribution, the applicant 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 pursuant to Section 2-162.1(a) of Hawai'i County Code. This condition shall not apply to any affordable lots included in the executed affordable housing agreement referenced in Condition O.

- O. Should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for imposition of exactions or the assessment of impact fees, conditions included herein shall be credited towards the requirements of the Unified Impact Fees Ordinance.
- P. The Applicant shall comply with all applicable County, State, and Federal codes, laws, rules, regulations, and requirements for the proposed development.
- Q. An initial extension of time for the performance of conditions within this ordinance may be requested in accordance with Section 25-2-44, subsections (c) and (d), of the Hawai'i County Code.
- R. If the applicant fails to fulfill any conditions of the zone change within the specified time limitations, the Planning Director or County Council may initiate the process for enactment of an ordinance reverting the affected property back to its original zoning designation or a more appropriate zoning designation in accordance with Section 25-2-43 of the Hawai'i County Code.



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-7 (NORTH AND SOUTH KOHALA DISTRICT ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING) OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE DISTRICT CLASSIFICATION FROM
AGRICULTURAL - 1 ACRE (A-1a) TO
SINGLE FAMILY RESIDENTIAL - 10,000 SQ. FT. (RS-10)
AT 'ŌULI, 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: