

COUNTY OF HAWAI‘I PLANNING DEPARTMENT
RECOMMENDATION

ANDREW MATSUURA

CHANGE OF ZONE APPLICATION PL-REZ-2024-000063

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-3 acre (A-3a) to a Single-Family Residential – 15,000 square feet (RS-15) zoning district for a 3.250-acre parcel 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 position. This favorable recommendation is based on the following findings:

The applicant is requesting a change of zone from Agricultural-3 acre (A-3a) to Single-Family Residential – 15,000 square feet (RS-15). The maximum number of lots that could be developed with the proposed RS-15 zoning for the property is nine (9) lots. However, the applicant intends to subdivide the property into six (6) lots as well as one (1) road lot for the Ahe Street extension that will be built to private roadway standards. All lots will have County water as well as overhead utility lines for power, phone and cable services. There is no County sewer system in the area, so the owners will construct individual septic wastewater systems meeting with the approval of the Department of Health. Subdivision improvements are estimated to cost approximately \$750,000. to commence the subdivision and development process immediately upon securing County rezoning approval. Subdivision approval is anticipated within ten (10) years from the effective date of the zoning change.

The subject 3.250-acre parcel is irregular in shape and located at the undeveloped end of Ahe Street. The property has a slight gradual slope from its mauka boundary towards its makai boundary. A single-family dwelling is situated on the property with the remainder of the property grubbed and vacant of any uses.

The Change of Zone request from Agricultural-3acre (A-3a) to Single Family Residential – 15,000 square feet (RS-15) conforms to, among others, the goals,

policies and standards of the General Plan Economic and Land Use Elements.

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

The proposed Change of Zone will conform to, among others, the goals, policies and standards of the Land Use and Land Use-Single-Family General Plan Elements:

Land Use

- Designate and allocate land uses in appropriate proportions and mix and in keeping with the social, cultural and physical environments of the County.
- Allocate appropriate requested zoning in accordance with the existing or projected needs of neighborhood, community, region and County.
- Promote and encourage the rehabilitation and use of urban areas that are serviced by basic community facilities and utilities.
- Encourage urban development within existing zoned areas already served by basic infrastructure, or close to such areas, instead of scattered development.
- Zoning requests 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.

Land Use: Single-Family Residential

- To maximize choices of single-family residential lots and/or housing for residents of the County.
- To ensure compatible uses within and adjacent to single-family residential zoned areas.

The requested change of zone conforms to the General Plan Land Use Pattern Allocation Guide (LUAG) Map. 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 subject area is designated Low Density Urban (ldu). Low Density Urban are those residential lands with ancillary community and public uses as well as neighborhood and convenience-type commercial uses. For the ldu designation, overall residential density may be up to six (6) units per acre.

The subject parcel is property is 3.250 acres in size and is irregular in shape. The parcel is located at the undeveloped end of Ahe Street in the Waiākea Homestead lots. A single-family dwelling is situated on the property with the remainder of the property grubbed and vacant of any uses.

The applicant's proposal to subdivide the property into 6 lots is consistent with the Low-Density Urban designation. This designation reflects the existing low-density residential development in this area of the Waiākea Homestead lots. The area is primarily residential in character with some agricultural lots. The proposed change of zone would complement the existing land uses in this area and will provide for an orderly development of the area.

The surrounding zoning in the area is a mix of Single-Family Residential (RS) and Agricultural (A) zoned districts. Immediately north and west of the subject parcel are lots zoned Single Family Residential – 10,000 square feet (RS-10), with a portion of the northern property line bounded by an Agricultural 3-acre (A-3a) zoned parcel. To the south and east are other A-3a zoned parcels. The land uses consist mainly of single-family dwellings in the surrounding RS-10 and A-3a zoning districts. The surrounding lands uses are predominately used for single-family residences. The property to the northeast was recently rezoned from A-3a to RS-10 in 2019 with Ordinance No. 19-092 for a 27-lot subdivision at the end of Mailani Street. The adjacent property to the east was

rezoned from A-3a to RS-10 in 1996 with Ordinance No. 96 081 for a 6-lot subdivision but the zoning was reverted in 2006.

The proposed request will result in a more appropriate land use pattern that will further the public necessity and convenience and the general welfare. When considering any request to change the zoning district of a property, the Director shall consider the purpose of the existing and proposed zoning district and the purpose of the Zoning Code and shall recommend a change in zoning only where it would result in a more appropriate land use pattern that will further the public necessity and convenience and the general welfare.

The predominant land use in this area is single-family residential with the exception of a few Agricultural zoned parcels in the vicinity of the proposed project site. The majority of the single-family residential parcels range between 10,000 to 15,000 sq. ft. in size and are zoned either RS-10 or RS-15. If approved, the proposed zoning of this site would be lots averaging 15,000 sq. ft. in size which would be consistent with the surrounding parcels zoning.

For the purpose of promoting health, safety, or the general welfare of the County, the Zoning Code regulates and restricts the height, size of buildings, and other structures, the percentage of a building site that may be occupied, off-street parking, setbacks, size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes. In considering the purposes of the Zoning Code in relation to the proposed request, the approval of the request will result in a higher density. If approved, the applicant could build a dwelling on each of the newly created lots, resulting in an increase in the overall unit density within the project site.

In considering the request in relation to the surrounding zoning, the request will result in an appropriate land use pattern. The subject property is surrounded on two sides by parcels that are zoned for single-family residential use, which will be similar to the proposed subdivision and will allow for the same density as the surrounding parcels.

Based on the above information, the proposed request will result in a more appropriate land use pattern that will further the public necessity and convenience, and

the general welfare of the County.

The proposed request will not burden public agencies to provide utilities and services to the subject property. Access to the proposed lots will be from Haihai Street, a County owned and maintained roadway. From Haihai Street, access to the subject property proceeds along Leilehua Street and then onto Ahe Street, both of which are County owned and maintained roadways. Ahe Street runs east to west along the top of the subject property and Kikaha Street runs north to south toward the middle of the subject property. These future street extensions are identified as an existing 50-foot-wide easement (Roadway Easement E-2) for roadway purposes. These planned throughfares have existed since the early 1980's and are referenced in multiple approved subdivision maps, tax maps, and rezoning ordinances within the area indicating planned future connectivity of Kikaha Street within the surrounding subdivisions between Haihai Street and Kawaihani Street and the extension of Ahe Street between Puku Street and Ho'omalulu Street. These throughfares were added with guidance from the Traffic Circulation Map of the Waiākea Area, which was stored in the Planning Department at the time.

The applicant is requesting to improve all roadways within the proposed subdivision to private roadway standards consisting of a pavement width of 16-foot-wide with 2-foot-wide compacted gravel shoulders/swales for a total 20-foot-wide improved right-of-way within the 50-foot-wide existing easement. The applicant proposes future road widening setbacks reflecting the distance between the proposed 20-foot-wide private road and the 50-foot-wide existing easement.

The Department of Public Works (DPW) recommends that the extension of Ahe Street through the proposed subdivision should match with the existing Ahe Street layout, which includes a minimum 30-foot-wide pavement, paved shoulders and swales, drainage improvements within a 50-foot-wide right-of-way, and any required utility relocation, meeting the requirements of the Americans with Disabilities Act. They also recommend that the developer install streetlights and traffic control devices as may be required by the Traffic Division. DPW however, refrained from making a recommendation for roadway improvements to the Kikaha Street extension due to several factors including the property's boundary line not abutting the improved portions of Kikaha Street, the

proposed subdivision layout not warranting the requirement of roadways built to dedicable standards since only 6 lots are proposed, and the proposed zoning designation not triggering the need for dedicable roadways.

The Planning Director agrees that the private subdivision road standard that the applicant is proposing for the Ahe Street and Kikaha Street extensions is appropriate for the 6-lot subdivision, rather than the 30-foot-wide pavement, paved shoulders and swales, and drainage improvements that DPW recommends, because the Subdivision Code allows for a total 20-foot-wide improved right-of-way when six lots or less are being created and the roadway will remain private and not be dedicated to the County. The Director is concerned that the applicant's proposed subdivision layout does not provide dedication of the 50-foot-wide road extension easement and does not show the private roadway built up to the adjoining properties. Therefore, the Director recommends the applicant delineate the future road extensions of Ahe Road and Kihaka Street as road lots on the subdivision plat map and dedicate, at no cost to the County, the 50-foot-wide road lots, when requested by DPW. This will preserve connectivity of these major collector roads for the future when the County is ready to build the roadways.

According to the Department of Water Supply (DWS) a water commitment deposit needs to be paid for the 5 additional lots of the 6-lot subdivision. There is currently an 8-inch water line within Ahe Street. The Department of Water Supply (DWS) stated that water can be made available once the applicant remits the deposit for the additional 5 units of water requested. DWS states that the proposed subdivision will be subject to the applicant constructing the necessary water system improvements, which shall include, but not be limited to water main installation; service laterals that will accommodate a 5/8-inch meter to front each lot; relocation and adjustment of the DWS affected water systems facilities (should they be necessary); and fire hydrant spacing of no more than 600 feet apart. The applicant will also be required to remit the prevailing facilities charge upon completion of the required water system improvements and prior to final subdivision approval being granted.

As there is no municipal wastewater system in this area, wastewater will be disposed of by an individual wastewater system, meeting the requirements of the

Department of Health. This will be done by the respective landowner in conjunction with the construction of a dwelling.

The subject property is located within an area designated as Flood Zone “X”, or an “Area of Minimal Flood Hazard.” As conditions of this recommended ordinance, all development generated runoff shall be disposed of onsite and not be directed toward any adjacent properties. Moreover, all earthwork and grading shall comply with Hawai‘i County Code Chapter 10, Erosion and Sediment Control and all development shall comply with Hawai‘i County Code Chapter 27, Floodplain Management.

All other essential utilities and services are or can be made available to the site.

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 site is located approximately 3.48-miles from the nearest shoreline and therefore will not be impacted by coastal hazard and beach erosion. There is no record of a designated public access that traverses the property. No valued cultural, historical or natural resources exist on the property and there is no evidence of any traditional and customary Native Hawaiian rights being practiced on the site. Thus, it is not anticipated that the proposed request will have any adverse impact on cultural or historical resources in the area.

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: No formal archaeological reconnaissance survey, oral history of kama‘aina accounts of the area, historical survey of documentary records, or botanical study was included in the application.
- The valued cultural, historical, and natural resources found in the rezoning area: The property was formerly cleared, and it is anticipated that no historic properties will be affected. A request for review has been submitted to the Department of Land and Natural Resources - State Historic Preservation Division to determine if any historic properties would be affected by the proposed change of zone.

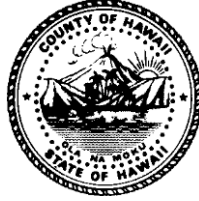
- Possible adverse effect or impairment of valued resources: Native plants may be destroyed by ground alteration. There is no evidence that the flora in the area are particularly desired or used for cultural practices.
- Feasible actions to protect native Hawaiian rights: No gathering is taking place on the site. 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.

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 above findings, approval of the Change of Zone request from **Agricultural-3 acre (A-3a) to Single-Family Residential – 15,000 sq. ft. (RS-15)** would result in an appropriate land use pattern that will further the public necessity and convenience and the general welfare.

The accompanying draft bill to amend Section 25-8-33 (City of Hilo Zone Map) Article 8, Chapter 25 (Zoning) 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. _____(PLANNING DEPARTMENT) BILL NO. _____

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 (2016 EDITION, AS AMENDED), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – 3 ACRES (A-3a) TO SINGLE FAMILY RESIDENTIAL – 15,000 SQUARE FEET (RS-15) AT CITY OF HILO, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-4-080:017.

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 (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 City of Hilo, South Hilo Hawai'i, shall be Single Family Residential- 15,000 Square Feet (RS-15):

Beginning at the Southwest corner of this parcel of land and on the East side of Ahe Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 15,136.82 feet South and 95.98 feet West and running by azimuths measured clockwise from True South:

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|----|----------|---|
| 1. | 175° 40' | 50.00 feet along the east side of Ahe Street; |
| 2. | 265° 40' | 427.56 feet along Lots 4-B and 3; |
| 3. | 355° 40' | 445.73 feet along Lot 1-B; |
| 4. | 85° 40' | 176.85 feet along Lots 1-A and 2-A; |

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|-----|----------|---|
| 5. | 175° 40' | 115.70 feet along Lot 2-A; |
| 6. | 85° 40' | 250.71 feet along Lot 2-A; |
| 7. | 175° 40' | 159.59 feet along Lots 14 and 13,
portions of Haihai Estates, Unit 1,
F.P. 1758; |
| 8. | 265° 40' | 166.06 feet along Lot 12-A; |
| 9. | 175° 40' | 120.44 feet along Lot 12-A; |
| 10. | 85° 40' | 166.06 feet along Lot 12-A to the
point of beginning and containing an
area of 3.250 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 25-8-33, Article 8, Chapter 25 (Zoning Code) 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:

ANDREW MATSUURA
CHANGE OF ZONE APPLICATION PL-REZ-2024-000063
CONDITIONS OF APPROVAL

- A. The applicant, successors or assigns (“Applicant”) shall be responsible for complying with all of the stated conditions of approval all applicable County, State, and Federal Laws, codes, rules, regulations, and requirements.
- B. Final Subdivision Approval shall be secured within ten (10) years from the effective date of this ordinance.
- C. Prior to the issuance of a water commitment by the Department of Water Supply (DWS), the Applicant shall submit the anticipated maximum daily water usage calculations as prepared by a professional engineer licensed in the State of Hawai‘i to the DWS. A water commitment deposit shall be paid to the DWS within 180 days from the effective date of this ordinance in accordance with Rule 5 of the Department of Water Supply’s Rules and Regulations. The Applicant is responsible for maintaining valid water commitments to support the proposed use until such time that required water facilities charges are paid in full.
- D. Prior to issuance of Final Subdivision Approval, the Applicant shall construct, or cause to be constructed, necessary water improvements meeting with the approval of the Department of Water Supply.
- E. The plat map submitted for final subdivision approval shall delineate a fifty-foot-wide road lot for the Ahe Street and Kikaha Street roadway extensions through the subject property. These road lots shall be dedicated to the County upon request of the Department of Public Works at no cost to the County.
- F. Within the Ahe Street and Kikaha Street roadway lots, the applicant shall provide a paved travel lane width of 16-feet and 2-foot-wide compacted gravel shoulders/swales per DPW standard detail R-25, up to the southern property boundary for the extension of Kikaha Street and the eastern property boundary for the extension of Ahe Street. These improvements shall remain in private ownership until the 50-foot-wide roadway lots are dedicated to the County as described in Condition E.

- G. Construction within the County right-of-way 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. A drainage study shall be prepared by a licensed civil engineer 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 issuance of Final Subdivision Approval.
- I. The Applicant shall comply with the Department of Health's Hawai'i Administrative Rules (HAR) Chapter 11-55, regarding Water Pollution Control, which requires an NPDES permit for certain construction activities.
- J. All earthwork and grading activity shall conform to the Hawai'i County Code Chapter 10, Erosion and Sedimentation Control, and Chapter 27, Flood Control.
- K. 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 Department of Land and Natural Resources-State Historic Preservation Division (DLNR-SHPD) 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.
- L. Individual wastewater system(s), meeting with the approval of the Department of Health, shall be provided by each respective landowner in conjunction with the construction of a dwelling.
- M. 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 **\$17,171.49** 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 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.

- N. To ensure that the Goals and Policies of the Housing Element of the General Plan are implemented, the applicant shall comply with the requirements of Chapter 11, Article 1, Hawai'i County Code relating to Affordable Housing Policy. This requirement shall be approved by the Administrator of the Office of Housing and Community Development prior to Final Subdivision Approval.

- 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. 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.
- Q. 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 25-8-33 (CITY OF HILO ZONE MAP)
 ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE 1983
 (2016 EDITION, AS AMENDED), BY CHANGING THE DISTRICT CLASSIFICATION FROM
 AGRICULTURAL - 3 ACRES (A-3a) TO
 SINGLE-FAMILY RESIDENTIAL - 15,000 SQUARE FEET (RS-15)
 AT CITY OF HILO, SOUTH HILO, HAWAII

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 2-4-080:017

DATE: July 19, 2024

EXHIBIT "A"

Andrew Matsuura
 Map: 1465