

**COUNTY OF HAWAI‘I PLANNING DEPARTMENT**  
**BACKGROUND AND RECOMMENDATION**

**HAWAII ISLAND COMMUNITY DEVELOPMENT CORPORATION**  
**AMENDMENT TO CHANGE OF ZONE ORDINANCE NO. 25 25**  
**(PL-REZ-2025-000079/AMEND PL-REZ-2024-000066)**

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**HAWAII ISLAND COMMUNITY DEVELOPMENT CORPORATION** has submitted an application for an amendment to Condition M (Affordable Housing) and Condition N (Fair Share Contribution) of Change of Zone Ordinance No. 25 25, which reclassified a 14.321-acre portion of a larger 237.5-acre parcel of land from an Agricultural-1 Acre (A-1a) zoning district to a Single-Family Residential-10,000 square feet (RS-10) zoning district. The subject property is located at the southwest corner of the intersection of Kawaihae Road and Waiula Drive, Kawaihae 2nd-Lanikepu, Waimea, South Kohala, Hawai‘i, TMK: (3) 6-2-001:075 (por.).

**PROPOSED ACTION**

1. **Applicant’s Request:** An amendment to Condition M (Affordable Housing) and Condition N (Fair Share Contribution) of Change of Zone Ordinance No. 25 25 which was approved in 2025. The applicant’s proposed project is to develop an affordable 43-lot single-family residential subdivision called ‘Koai’e.’ The proposed amendment language is as follows (material to be added is underlined and material to be removed is bracketed and struck-through):

*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.]~~ 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 as evidenced by an executed and recorded affordable housing agreement which shall be provided to the Planning Department by the Applicant prior to Final Subdivision Approval. Fair share requirements under Condition N shall be conditionally waived for affordable housing units or lots, if the Applicant executes an affordable housing agreement to provide fifty (50) to one hundred (100) percent of the development as affordable housing units or lots. If the affordable housing units or lots are not produced and sold or rented in accordance with the affordable housing agreement, any fair share requirements under Condition N that were waived will become due and payable.*

- N. *Should the Applicant develop residential lots on the subject property, the*  
*[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~~ lot to the County to support park and recreational improvements and facilities;*

2. *\$399.45 per single family residential [unit] lot to the County to support police facilities;*
3. *\$788.96 per single family residential [unit] lot to the County to support fire facilities;*
4. *\$345.41 per single family residential [unit] lot to the County to support solid waste facilities; and*
5. *\$7,357.27 per single family residential [unit] lot 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 M.]~~*

### **REASON FOR THE REQUEST**

2. According to the applicant, the purpose of these amendments is to allow them to utilize the County of County of Hawai'i Affordable Housing Production Program (AHP) to help develop the 'Koai'e' affordable housing subdivision on the subject property. The AHP was created in 2022 via an amendment to Chapter 11 (Housing) of the Hawai'i County Code, which appropriates at least \$5 million annually the County Office of Housing and Community Development (OHCD) to facilitate programs that support affordable housing production (more specific information on the AHP can be found on OHCD's website at the following link: <https://www.housing.hawaiicounty.gov/grants-funding/affordable-housing-production-program-ahp>). In its 2024 rezone amendment application, HICDC committed to dedicating 100% of the 43 planned lots for affordable housing and this commitment was formalized in Condition M of the subject rezone ordinance. At the time of the rezoning neither the applicant nor the Planning Department were aware that this condition language conflicts with the AHP's funding rules. Specifically, Section 3-5(6)(b) of the AHP Administrative Rules states: "The

*affordable housing units required by receipt of program funds shall not be used to fulfill any other obligation for affordable housing units as required by law or other subsidy obligations.”* Due to this provision, HICDC is currently unable to apply AHP funds toward the 43 lots mandated by Condition M, since those lots are being used to meet a zoning ordinance condition. To resolve this conflict, the Planning Department collaborated with OHCD to develop standard affordable housing condition language that aligns with AHP rules and encourages the development of additional affordable housing lots/units by offering incentives, such as relief from Fair Share requirements, in return for voluntarily provided affordable units well beyond the 20% required by the County Housing Code. The proposed amendments are consistent with the new standard condition language and satisfy the intent of the original Condition M, which is to create a significant number of affordable lots. Finally, the applicant proposes revisions to Condition N to clarify that, for Fair Share purposes, the relevant metric should be the number of lots created rather than the number of housing units, as currently stated in the condition.

3. **Landowner:** Hawaii Island Community Development Corporation.
4. **Supportive Information:** The applicant has submitted the attached in support of the request: **(Planning Department Exhibit 1 – Change of Zone Amendment Request dated May 12, 2025).**

#### **ADDITIONAL BACKGROUND INFORMATION**

5. The applicant’s original rezoning request was heard by the Leeward Planning Commission (LPC) on November 21, 2024. As there have been no significant project changes due to the inability to obtain AHP funding, the background report provided to the LPC for the November 21, 2024 hearing is still applicable and can be found at the following link:

<https://records.hawaiicounty.gov/weblink/Browse.aspx?dbid=1&startid=140180>

#### **AGENCIES – NO RESPONSE**

6. Office of Housing and Community Development.

#### **PUBLIC COMMENTS PROVIDED**

7. None as of the date of this writing.

## **PLANNING DIRECTOR'S RECOMMENDATION**

Upon review of the request, **the Planning Director recommends that the Planning Commission forward a favorable recommendation to amend Condition M (Affordable Housing) and Condition N (Fair Share) of Change of Zone Ordinance No. 25 25 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 based on additional information presented at the public hearing. The Planning Director's favorable recommendation is based on the following findings:

As stated above, the applicant is requesting to amend two conditions of the subject Change of Zone ordinance to facilitate their ability to utilize funds from the County's Affordable Housing Production (AHP) program to develop the 'Koai'e' affordable housing subdivision. In their application for rezoning, the applicant committed to dedicating 100% of the 43 planned lots for affordable housing. As had been the Planning Department's practice at the time, the applicant's commitment was memorialized in the affordable housing condition (Condition M). Additionally, to help defray the cost of developing these affordable lots, the Planning Director added language to the fair share condition (Condition N) to provide relief from the requirement to pay fair share on the proposed affordable lots.

At the time of the rezoning neither the applicant nor the Planning Department were aware that this condition language conflicts with the AHP's funding rules, specifically around the prohibition of AHP funding use for affordable housing units/lots that are required by law. Because Condition M treats the 43 affordable lots as a zoning requirement, AHP funding cannot be applied to them under Section 3-5(6)(b) of the program rules.

To resolve this conflict, the Planning Department collaborated with OHCD to develop new standard affordable housing condition language for change of zone ordinances that aligns with AHP rules and encourages the development of additional affordable housing lots/units by offering incentives, such as relief from Fair Share requirements, in return for voluntarily provided affordable units well beyond the 20% required by the County Housing Code.

The applicants' proposed amendments to Conditions M and N are generally consistent with the department's updated standard condition language and continue to

support the original intent of promoting the development of a substantial number of affordable residential lots.

The Planning Director recommends one modification: removal of the applicants' proposed introductory clause to Condition N, which states, "*Should the Applicant develop residential lots on the subject property, the [The] ...*". This conditional phrasing is more appropriate in the context of commercial zoning, where residential development is permitted but not required. However, because the subject property is zoned Single-Family Residential (RS-10), the creation of residential lots is an expected outcome. As such, the inclusion of this qualifying language is unnecessary.

Additionally, there have been no changes to the subject property, proposed development, or associated land use entitlements since the zoning ordinance was approved by County Council in early 2025. Therefore, the justification provided for that rezoning remains valid. These include consistency with the General Plan, the South Kohala Community Development Plan, and the Zoning Code; the availability of necessary infrastructure; and compliance with Coastal Zone Management (CZM) requirements, including the protection of historic, cultural, and natural resources.

The proposed revisions to Conditions M and N remain consistent with these overarching policy objectives and will further facilitate the applicant's efforts to provide critically needed affordable housing in the South Kohala region.

Lastly, this recommendation is made with the understanding that the applicant remains responsible for complying with all other applicable governmental requirements in connection with the proposed use, prior to its commencement or establishment upon the subject properties. Additional governmental requirements may include the issuance of building permits, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA), 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 findings presented, **the Planning Director recommends a favorable recommendation to the applicant's proposed amendment to Condition M (Affordable Housing) and Condition N (Fair Share) as modified by the Director be forwarded to the County Council.**

The accompanying draft bill to amend Ordinance No. 25 25 is provided for your consideration. Please note the proposed conditions of approval attached to the draft bill, including updates to conditions to reflect current standard condition language, including updating fair share amounts, and adding ordinance nullification/reversion language as required by the Zoning Code. Material to be deleted is bracketed and struck through; new material is underscored.



**HAWAII ISLAND COMMUNITY DEVELOPMENT CORPORATION**  
**100 PAUAAHI STREET, SUITE 201 • HILO, HAWAII, 96720**

May 12, 2025

Jeff Darrow  
Planning Director  
101 Pauahi Street, Suite 3  
Hilo, Hawaii 96720

Subject: Amendment to Rezoning Ordinance 25-25 Conditions M and N

Dear Mr. Darrow:

The Hawaii Island Community Development Corporation (HICDC) requests the amendment of Ordinance 25-25 Condition M and Condition N. The purpose of the amendment is to allow the affordable housing project to utilize funds from the County of Hawaii Affordable Housing Production Program (AHPP) and other funding sources.

HICDC represented that 43 of the lots would be used for affordable housing. This representation has been incorporated into Condition M in excess of what Chapter 11 (Housing) would require. The Chapter 11 requirement is that affordable housing credits equal to 20% of the units be provided, in this case 8.6 credits would be required as opposed to 43 units as required by Condition K.

The Administrative Rules for Affordable Housing Production Program (AHPP) Section 3-5 (6)(b) states:

The affordable housing units required by receipt of program funds shall not be used to fulfill any other obligation for affordable housing units as required by law or other subsidy obligations.

HICDC will use all 43 lots for affordable housing, however, the existing Condition M and the AHPP rules will not allow the use of AHPP for those homes. What is being requested are amendments that do not prohibit the use of the AHPP funds for any units beyond the normal requirements of Chapter 11. The conditions in Ordinance 25-25 and the implications for the AHPP have been reviewed by the Planning Department, the Office of Housing and Community Development and the applicant. As a result the following amendments to Condition M and N are proposed (deletions are bracketed and struck through, new language is underlined):

Planning Dept.  
Exhibit 1

AN EQUAL HOUSING OPPORTUNITY, EQUAL OPPORTUNITY EMPLOYER  
ADMINISTRATION: (808) 969-1158  
FAX (808) 935-6916



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.]~~ 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 as evidenced by an executed and recorded affordable housing agreement which shall be provided to the Planning Department by the Applicant prior to Final Subdivision Approval. Fair share requirements under Condition N shall be conditionally waived for affordable housing units or lots, if the Applicant executes an affordable housing agreement to provide fifty (50) to one hundred (100) percent of the development as affordable housing units or lots. If the affordable housing units or lots are not produced and sold or rented in accordance with the affordable housing agreement, any fair share requirements under Condition N that were waived will become due and payable.

N. Should the Applicant develop residential lots on the subject property, the [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]~~ lot. 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]~~ lot shall be allocated as follows:

1. **\$8,280.39** per single family residential ~~[unit]~~ lot to the County to support park and recreational improvements and facilities;
2. **\$399.45** per single family residential ~~[unit]~~ lot to the County to support police facilities;
3. **\$788.96** per single family residential ~~[unit]~~ lot to the County to support fire facilities;
4. **\$345.41** per single family residential ~~[unit]~~ lot to the County to support solid waste facilities; and
5. **\$7,357.27** per single family residential ~~[unit]~~ lot 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 M.]~~

We believe that this is a reasonable request, meets with the original intent of Condition K, and will facilitate development of affordable housing at this site.

Sincerely,

**Keith Kato**

Digitally signed by Keith  
Kato  
Date: 2025.05.13  
12:08:14 -10'00'

Keith H Kato  
Executive Director

Path: O:\Hawaii\Ouli HICDC Master Plan\GIS\Projects\Ouli Affordable Site Plan\Ouli Affordable Site Plan.aprx



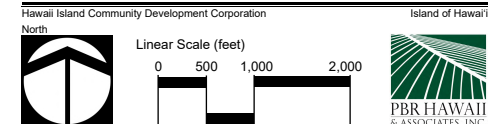
## LEGEND

-  Project Area
-  Project TMK (6-2-001:075)
-  County TMK

Sources: County of Hawaii, 2023.  
Esri, TomTom, Garmin, FAO, NOAA, USGS, EPA, USFWS, Resource Mapping Hawaii, Maxar, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, US Census Bureau, USDA, USFWS  
Disclaimer: This Graphic has been prepared for general planning purposes only and should not be used for boundary Interpretations or other spatial analysis.

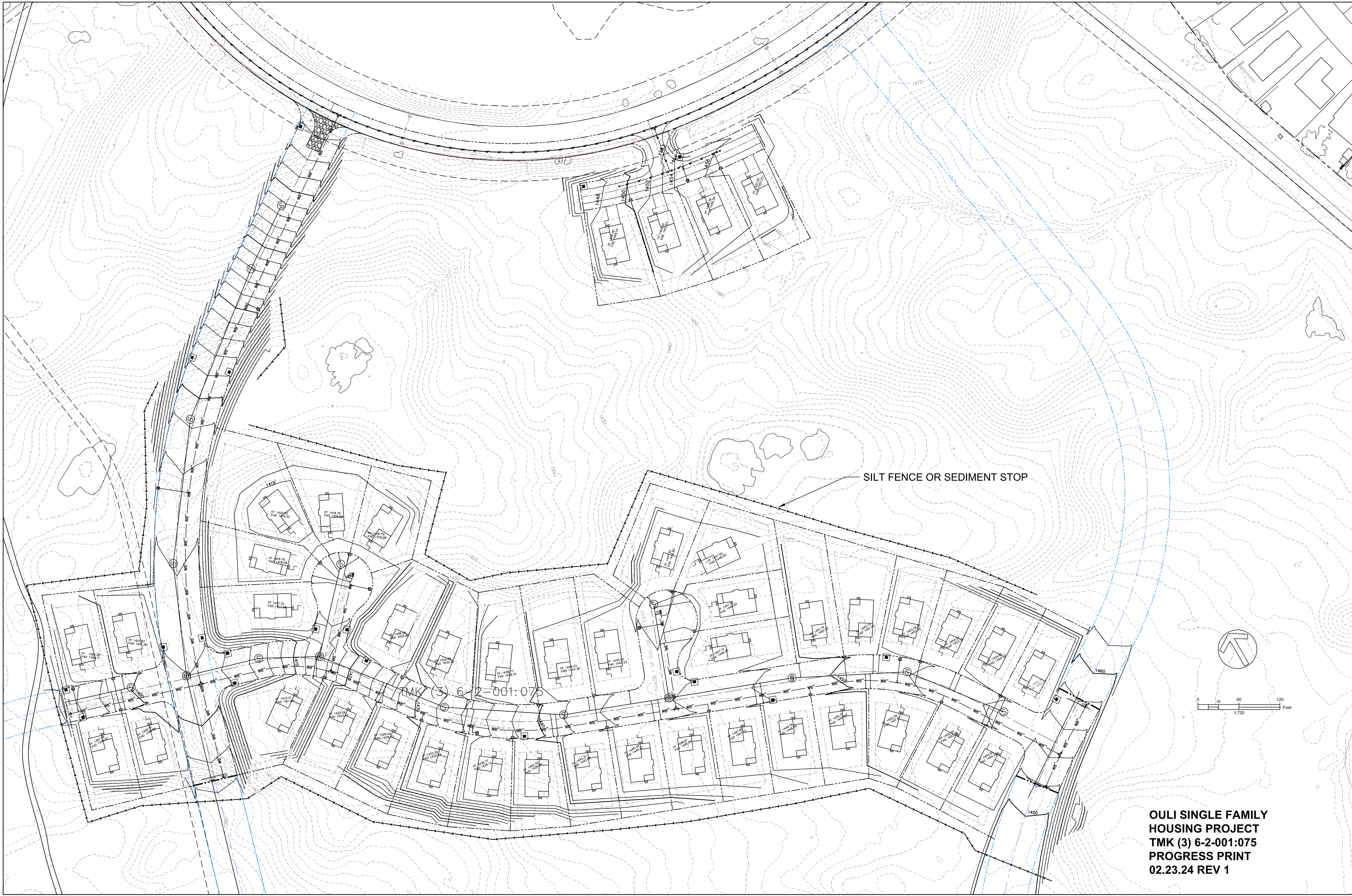


FIGURE 1:  
Regional Location  
'ŌULI AFFORDABLE  
SITE PLAN

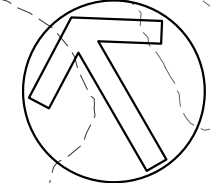


DATE: 4/3/2024





SILT FENCE OR SEDIMENT STOP



0 30 60 120 Feet  
1:720

OULI SINGLE FAMILY  
HOUSING PROJECT  
TMK (3) 6-2-001:075  
PROGRESS PRINT  
02.23.24 REV 1



**BILL NO.** 18

ORDINANCE NO. 25 25

Thence along the same on a curve to the right with a radius of 767.00 feet,

|     |      |     |     |        |                                                                                                                              |
|-----|------|-----|-----|--------|------------------------------------------------------------------------------------------------------------------------------|
|     |      |     |     |        | the chord azimuth and distance<br>being:                                                                                     |
| 2.  | 215° | 49' | 42" | 223.52 | feet;                                                                                                                        |
| 3.  | 313° | 50' |     | 326.51 | feet along the remainder of Lot D,<br>along the remainder of R.P. 2237,<br>L.C. Aw. 8518-B, Ap. 1 to James<br>Young Kanehoa; |
| 4.  | 43°  | 50' |     | 118.84 | feet along the remainder of Lot D,<br>along the remainder of R.P. 2237,<br>L.C. Aw. 8518-B, Ap. 1 to James<br>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<br>the left with a radius of 833.00 feet,<br>the chord azimuth and distance<br>being:    |
| 11. | 51°  | 46' | 21" | 176.39 | feet;                                                                                                                        |
| 12. | 147° | 51' |     | 162.67 | feet along the remainder of Lot D,<br>along the remainder of R.P. 2237,<br>L.C. Aw. 8518-B, Ap. 1 to James<br>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,<br>along the remainder of R.P. 2237,<br>L.C. Aw. 8518-B, Ap. 1 to James<br>Young Kanehoa;                                                                                                  |
|    |      |     |     |       | Thence along the same on a curve to<br>the left with a radius of 20.00 feet,<br>the chord azimuth and distance<br>being:                                                                                                      |
| 5. | 147° | 13' | 10" | 27.33 | feet;                                                                                                                                                                                                                         |
|    |      |     |     |       | Thence along the Waiula Drive on a<br>curve to the left with a radius of<br>625.00 feet, the chord azimuth and<br>distance being:                                                                                             |
| 6. | 282° | 01' | 06" | 45.89 | feet;                                                                                                                                                                                                                         |
|    |      |     |     |       | Thence along the same on a curve to<br>the left with a radius of 1,025.00<br>feet, the chord azimuth and distance<br>being:                                                                                                   |
| 7. | 279° | 01' | 07" | 32.05 | feet;                                                                                                                                                                                                                         |
|    |      |     |     |       | Thence along the remainder of Lot<br>D, along the remainder of R.P. 2237,<br>L.C. Aw. 8518-B, Ap. 1 to James<br>Young Kanehoa on a curve to the<br>left with a radius of 20.00 feet, the<br>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<br>D, along the remainder of R.P. 2237,<br>L.C. Aw. 8518-B, Ap. 1 to James<br>Young Kanehoa on a curve to the<br>left with a radius of 20.00 feet, the<br>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 25-2-44, 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.

- 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 this 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.
- 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.
- 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.

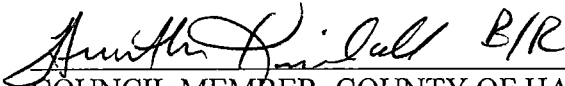
In lieu of paying the fair share contribution, the applicant may contribute land and/or construct improvements/facilities related to parks and recreation, fire, police, solid waste disposal facilities and roads within the region impacted by the proposed development, subject to the review and recommendation 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 M.

- 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 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 this ordinance is null and void without further action by the County. In that event, the zoning designation of the property affected by this ordinance shall automatically revert to its immediate prior zoning designation.

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.

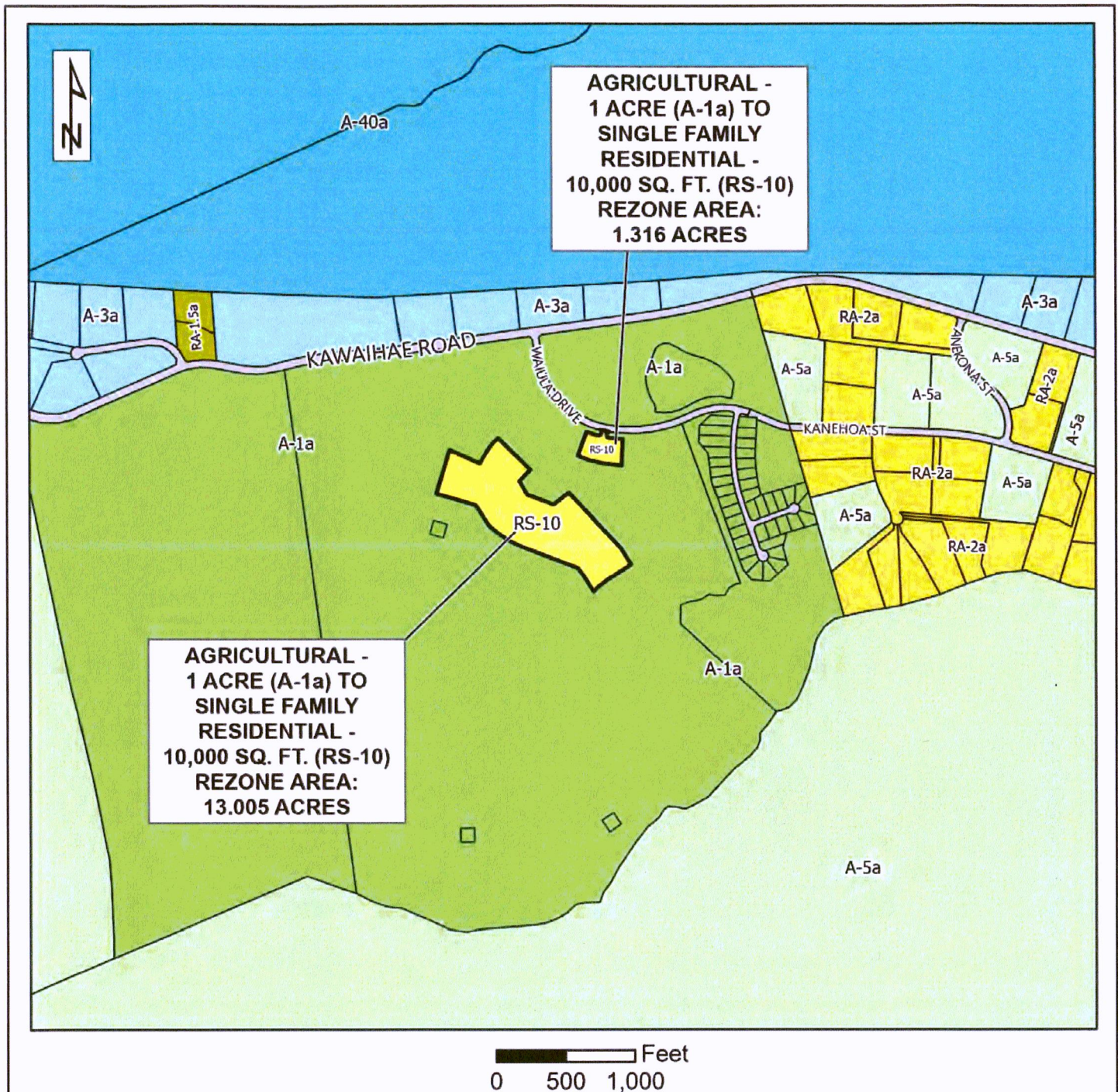
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

 B/R  
COUNCIL MEMBER, COUNTY OF HAWAI'I

Kona, Hawai'i  
Date of Introduction: February 5, 2025  
Date of 1st Reading: February 5, 2025  
Date of 2nd Reading: February 19, 2025  
Effective Date: March 4, 2025

REFERENCE Comm. 77.4



# AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-7 (NORTH AND SOUTH KOHALA DISTRICT ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING) OF THE HAWAII 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, HAWAII



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

COUNTY CLERK  
COUNTY OF HAWAII

2025 MAR -4 AM 9:38

(Draft 2)

Introduced By: Heather L. Kimball (B/R)  
Date Introduced: February 5, 2025  
First Reading: February 5, 2025  
Published: February 14, 2025

REMARKS:

Second Reading: February 19, 2025  
To Mayor: February 27, 2025  
Returned: March 4, 2025  
Effective: March 4, 2025  
Published: March 14, 2025

REMARKS:

| ROLL CALL VOTE        |      |      |     |    |
|-----------------------|------|------|-----|----|
|                       | AYES | NOES | ABS | EX |
| Galimba               | X    |      |     |    |
| Hustace               | X    |      |     |    |
| Inaba                 | X    |      |     |    |
| Kagiwada              | X    |      |     |    |
| Kāneali'i-Kleinfelder |      | X    |     |    |
| Kierkiewicz           | X    |      |     |    |
| Kimball               | X    |      |     |    |
| Onishi                | X    |      |     |    |
| Villegas              | X    |      |     |    |
|                       | 8    | 1    | 0   | 0  |

| ROLL CALL VOTE        |      |      |     |    |
|-----------------------|------|------|-----|----|
|                       | AYES | NOES | ABS | EX |
| Galimba               | X    |      |     |    |
| Hustace               | X    |      |     |    |
| Inaba                 | X    |      |     |    |
| Kagiwada              | X    |      |     |    |
| Kāneali'i-Kleinfelder |      | X    |     |    |
| Kierkiewicz           | X    |      |     |    |
| Kimball               | X    |      |     |    |
| Onishi                |      | X    |     |    |
| Villegas              |      | X    |     |    |
|                       | 6    | 3    | 0   | 0  |

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.



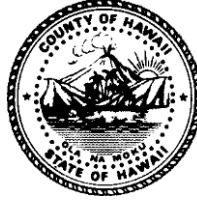
Approved/Disapproved this 4th day  
of March, 2025

MAYOR, COUNTY OF HAWAII

  
COUNCIL CHAIRPERSON  
COUNTY CLERK

Bill No.: 18 (Draft 2)  
Reference: C-77.4/LAAC-7  
Ord No.: 25 25

COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

*(Planning Department)*

AN ORDINANCE AMENDING ORDINANCE NO. 25 25, WHICH AMENDED 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 (PORTION).

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

**SECTION 1.** Section 2 of Ordinance No. 25 25 is amended as follows:

“SECTION 2. In accordance with Section 25-2-44, 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.

A



All as shown on the map attached hereto, marked Exhibit "A" and by reference made a part hereof.

**INSERT CONDITIONS ”**

**SECTION 2.** Material to be deleted is bracketed and stricken. New material is underscored.

**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:

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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  
AMENDMENT TO CHANGE OF ZONE ORDINANCE NO. 25-25  
(PL-REZ-2025-000079/AMEND PL-REZ-2024-000066)  
AMENDED CONDITIONS OF APPROVAL**

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- 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.
- 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.]~~ 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 as evidenced by an executed and recorded affordable housing agreement which shall be provided to the Planning Department by the Applicant prior to Final Subdivision Approval. Fair share requirements under Condition N shall be conditionally waived for affordable housing units or lots, if the Applicant executes an affordable housing agreement to provide fifty (50) to one hundred (100) percent of the development as affordable housing units or lots. If the affordable housing units or lots are not produced and sold or rented in accordance with the affordable housing agreement, any fair share requirements under Condition N that were waived will become due and payable.

- 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~~] **\$17,921.82** 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~~] **\$8,642.22** per single family residential [~~unit~~] lot to the County to support park and recreational improvements and facilities;
  2. [~~\$399.45~~] **\$416.90** per single family residential [~~unit~~] lot to the County to support police facilities;

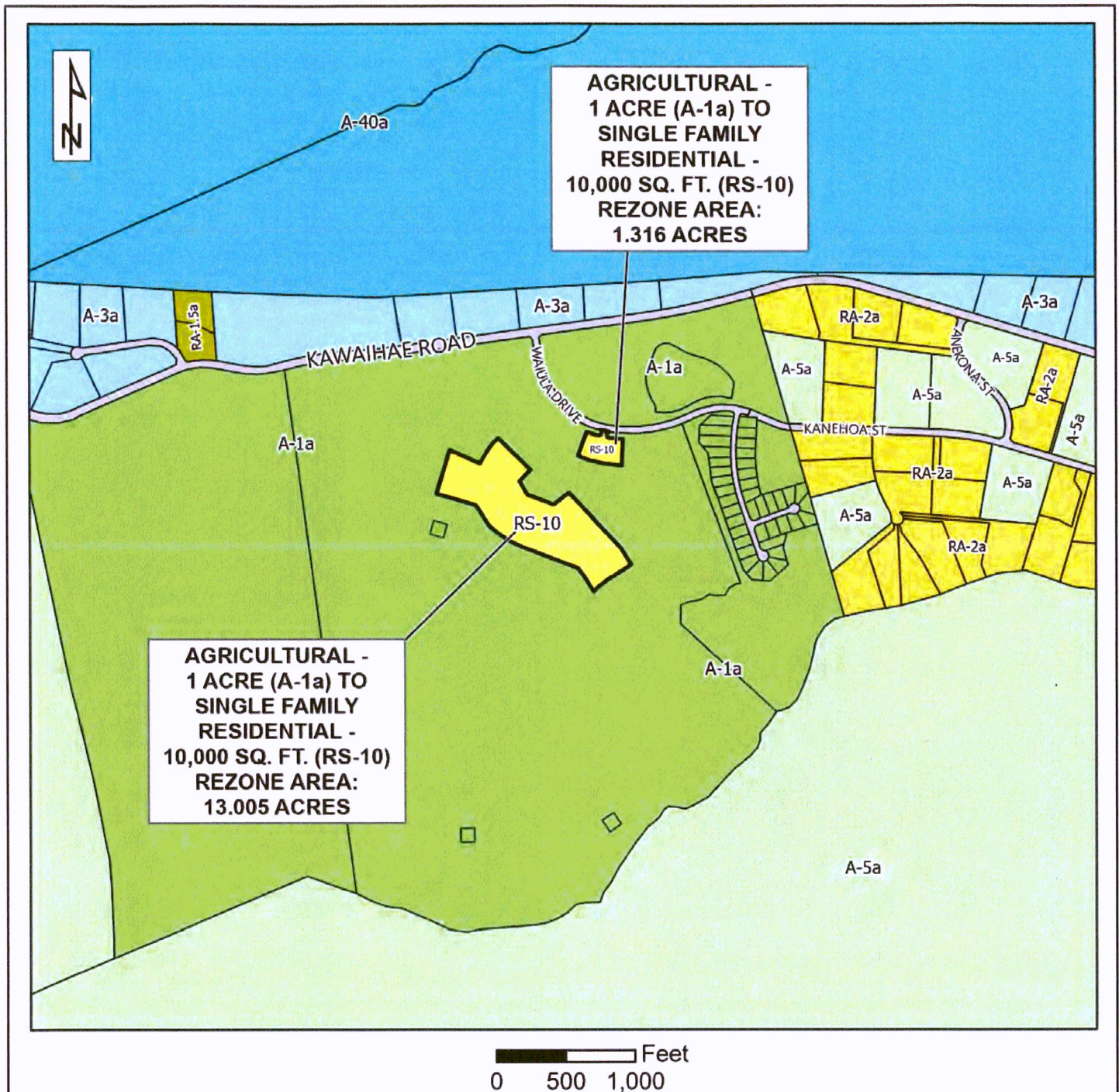
3. ~~[\$788.96]~~ \$823.43 per single family residential ~~[unit]~~ lot to the County to support fire facilities;
4. ~~[\$345.41]~~ \$360.51 per single family residential ~~[unit]~~ lot to the County to support solid waste facilities; and
5. ~~[\$7,357.27]~~ \$7,678.76 per single family residential ~~[unit]~~ lot 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 M.]~~

- 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.]~~ 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), 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(s) affected by the ordinance shall automatically revert to its immediate prior zoning designation.



# AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-7 (NORTH AND SOUTH KOHALA DISTRICT ZONE MAP) ARTICLE 8, CHAPTER 25 (ZONING) OF THE HAWAII 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, HAWAII