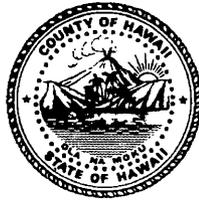


COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. 198

ORDINANCE NO. 22 100

AN ORDINANCE AMENDING SECTION 25-8-32 (SOUTH HILO 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 – 3 ACRES (A-3a) TO SINGLE-FAMILY RESIDENTIAL – 15,000 SQUARE FEET (RS-15) AT AINAOLA, SOUTH HILO, HAWAI'I, COVERED BY TAX MAP KEY: 2-4-039:025.

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

SECTION 1. Section 25-8-32, 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 Ainaola, South Hilo, Hawai'i, shall be Single-Family Residential – 15,000 square feet (RS-15):

Beginning at the northwest corner of this parcel of land, being the northeast corner of Lot 30 of Waiākea Nani Estates and on the south side of Haihai Street, the coordinates of said point of beginning referred to Government Survey Triangulation Station "HALAI" being 16,040.81 feet South and 367.85 feet East, thence running by azimuths measured clockwise from True South:

- | | | | |
|----|----------|--------|--|
| 1. | 265° 40' | 930.78 | feet along the south side of Haihai Street; |
| 2. | 28° 58' | 111.49 | feet along the westerly side of Ainaola Drive; |
| 3. | 119° 41' | 92.40 | feet along Camp 5-A; |
| 4. | 29° 41' | 499.60 | feet along Camp 5-A; |

5.	299°	41'		100.39	feet along Camp 5-A;
6.	28°	14'	59"	60.42	feet along the westerly side of Ainaola Drive;
7.	29°	41'		385.07	feet along the westerly side of Ainaola Drive;
8.	299°	41'		5.00	feet along a jog in Ainaola Drive;
9.	29°	41'		38.43	feet along the westerly side of Ainaola Drive;
10.	120°	51'		23.28	feet along Lower Waiākea-Uka Tank Site;
11.	32°	02'		27.14	feet along Lower Waiākea-Uka Tank Site;
12.	122°	02'		50.00	feet along Triangulation Station "TANK" Lot;
13.	32°	02'		50.00	feet along Triangulation Station "TANK" Lot;
14.	122°	02'		217.20	feet along a portion of Grant 11,642 to Kikumi Higa Maedo;
15.	32°	02'		190.01	feet along a portion of Grant 11,642 to Kikumi Higa Maedo;
16.	85°	40'		297.86	feet along Lot 1-A, a portion of Grant 11,642 to Kikumi Higa Maedo;
17.	175°	40'		151.61	feet along Lot 22 of Waiākea Nani Estates;
18.	265°	40'		60.87	feet along Lot 23 of Waiākea Nani Estates;
19.	175°	40'		99.60	feet along Lot 23 of Waiākea Nani Estates;

20.	265° 40'	161.70	feet along Lot 25 and Lot 26 of Waiākea Nani Estates;
21.	175° 40'	144.25	feet along Lot 26 of Waiākea Nani Estates;
22.	265° 40'	113.50	feet along Ho‘olala Street and Road Lot of Waiākea Nani Estates;
23.	175° 40'	50.00	feet along Road Lot;
24.	265° 40'	10.90	feet along Lot 27 of Waiākea Nani Estates;
25.	Thence along Road Lot B of Waiākea Nani Estates, along a curve to the right with a radius of 475.00 feet, the chord azimuth and distance being: 269° 09' 57.72 feet;		
26.	182° 38'	110.32	feet along Road Lot B and Lot 27 of Waiākea Nani Estates;
27.	175° 40'	195.30	feet along Lot 28 and Lot 29 of Waiākea Nani Estates;
28.	85° 40'	58.90	feet along Lot 29 of Waiākea Nani Estates;
29.	175° 40'	213.00	feet along Road Lot A and Lot 30 of Waiākea Nani Estates to the point of beginning and containing an area of 51,527 Square Feet or 13.838 Acres, more or less.

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

SECTION 2. In accordance with Section 25-2-44, Hawai‘i County Code 1983 (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 is responsible for maintaining valid water commitments to support the proposed development until such time that required water facilities charges are paid in full.
 - C. The Applicant shall construct necessary water system improvements as required by the Department of Water Supply, which may include, but not be limited to, 1) service laterals that will accommodate a 5/8-inch meter to front each lot, 2) water mains capable of delivering water at adequate pressure and volume under peak-flow and fire-flow conditions; minimum diameter of mains shall be six (6) inches, 3) fire hydrants spaced no more than 600 feet apart, and 4) subject to other agencies requirements to construct improvements within the road right-of-way fronting the property affected by the proposed development, the application shall be responsible for the relocation and adjustment of the Department of Water Supply's affected water system facilities, should they be necessary.
 - D. Final Subdivision Approval shall be secured within five (5) years from the effective date of this ordinance.

- E. A five (5) foot wide future road widening setback along the property's Ainaola Drive frontage shall be subdivided at the time of Final Subdivision Approval and dedicated to the County upon request of the Department of Public Works at no cost to the County.
- F. Restrictive covenants in the deeds of all proposed lots fronting the 20-foot-wide private road shall require the homeowners of said lots to maintain the one private cul-de-sac road. All other roadways within the subdivision shall be constructed to County-dedicable standards and dedicated to the County. There shall be no direct driveway access to Haihai Street or Ainaola Drive from individual lots.
- G. All subdivision roadway connections and construction within the Ainaola Drive and Haihai Street Right-of-Way shall conform to Chapter 22, County Streets, of the Hawai'i County Code. Access to Ainaola Drive and Haihai Street, including the provision of adequate site distances, shall meet with the approval of the Department of Public Works.
- H. Install streetlights, signs and markings along interior subdivision roadways and in proximity to its intersections with Ainaola Drive and Haihai Street, meeting with the approval of the Department of Public Works-Traffic Division.
- I. Based on current State Department of Health wastewater rules, the project shall not exceed 33 single-family dwellings and 16 accessory dwelling units (ADU) also known as 'Ohana dwellings. The 16 ADU's shall be assigned to specified lots by the applicant prior to Final Subdivision approval. Lots not specified for ADU's shall have restrictive covenants recorded against title to the property giving notice that the terms of the zoning ordinance prohibit the construction of ADU's and condominium property regimes. A copy of the proposed covenant(s) to be recorded with the State of Hawai'i Bureau of Conveyances shall be submitted to the Planning Director for review and approval prior to the issuance

of Final Subdivision Approval. A copy of the recorded document shall be filed with the Planning Department upon its receipt from the Bureau of Conveyances. Should the State Department of Health wastewater rules change to permit more than 49 dwelling units to utilize individual wastewater systems (IWS) in the future this condition shall be automatically adjusted to the then current standards. Changes to any restrictive covenants on the individual lots based on a rule change would be on a first come first serve basis. All applicable State Department of Health and HRS Chapter 343 regulations shall be followed.

- J. 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.
- K. The applicant shall comply with Chapter 27, Flood Control, of the Hawai'i County Code.
- L. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code.
- M. 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.
- N. The method of sewage disposal shall meet with the requirements of the Department of Health.

- O. Construction activities must comply with the provisions of Hawai'i Administrative Rules, Chapter 11-46, "Community Noise Control."
- P. 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.
- Q. To protect any Hawaiian Hoary Bats in the vicinity of the property, barbed wire fencing shall not be used on the property and woody vegetation over 15 feet in height shall not be removed during bat breeding season of June 1st to September 15th.
- R. If any state-listed waterbirds such as the Hawaiian Duck, Hawaiian Stilt, Hawaiian Coot or Hawaiian Goose (Nēnē) are present during any construction activities, cease all activities within 100 feet of the bird. Work may continue after the bird leaves of its own accord. If a nest is discovered at any point, the Hawai'i Island Branch DOFAW Office shall be contacted.
- S. If trees are to be cut, particularly during the breeding season from March to September, the area shall first be surveyed to ensure no Hawaiian Hawk ('Io) nests are present.
- T. The Applicant(s) shall make its fair share contribution to mitigate the potential regional impacts of the property with respect to parks and recreation, fire, police, solid waste disposal facilities and roads. The fair share contribution shall become

due and payable prior to receipt of Final Subdivision Approval. The fair share contribution for each lot shall be based on the number of lots developed. 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 maximum combined value of **\$15,636.59** per single family residential lot. The fair share contribution per single family residential lot shall be allocated as follows:

1. **\$7,540.24** per single family residential lot to the County to support park and recreational improvements and facilities;
2. **\$363.74** per single family residential lot to the County to support police facilities;
3. **\$718.44** per single family residential lot to the County to support fire facilities;
4. **\$314.54** per single family residential lot to the County to support solid waste facilities; and
5. **\$6,699.63** per single family residential lot to the County to support road and traffic improvements.

In lieu of paying the fair share contribution, the Applicant(s) 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.

- U. 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.

- V. 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.

- W. The Applicant shall comply with all applicable County, State, and Federal codes, laws, rules, regulations, and requirements for the proposed development, including the State Department of Health.

- X. An initial extension of time for the performance of conditions within the ordinance may be granted by the Director upon the following circumstances:
 - 1. The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the Applicant, successors or assigns, and that are not the result of their fault or negligence.
 - 2. Granting of the time extension would not be contrary to the General Plan or Zoning Code.
 - 3. Granting of the time extension would not be contrary to the original reasons for the granting of the change of zone.

4. The time extension shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

If the Applicant should require an additional extension of time, the Planning Director shall submit the Applicant's request to the County Council for appropriate action.

- Y. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the area to its original or more appropriate designation.

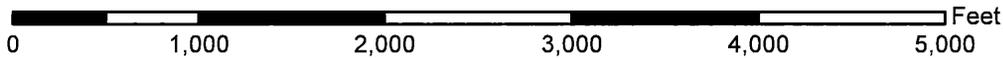
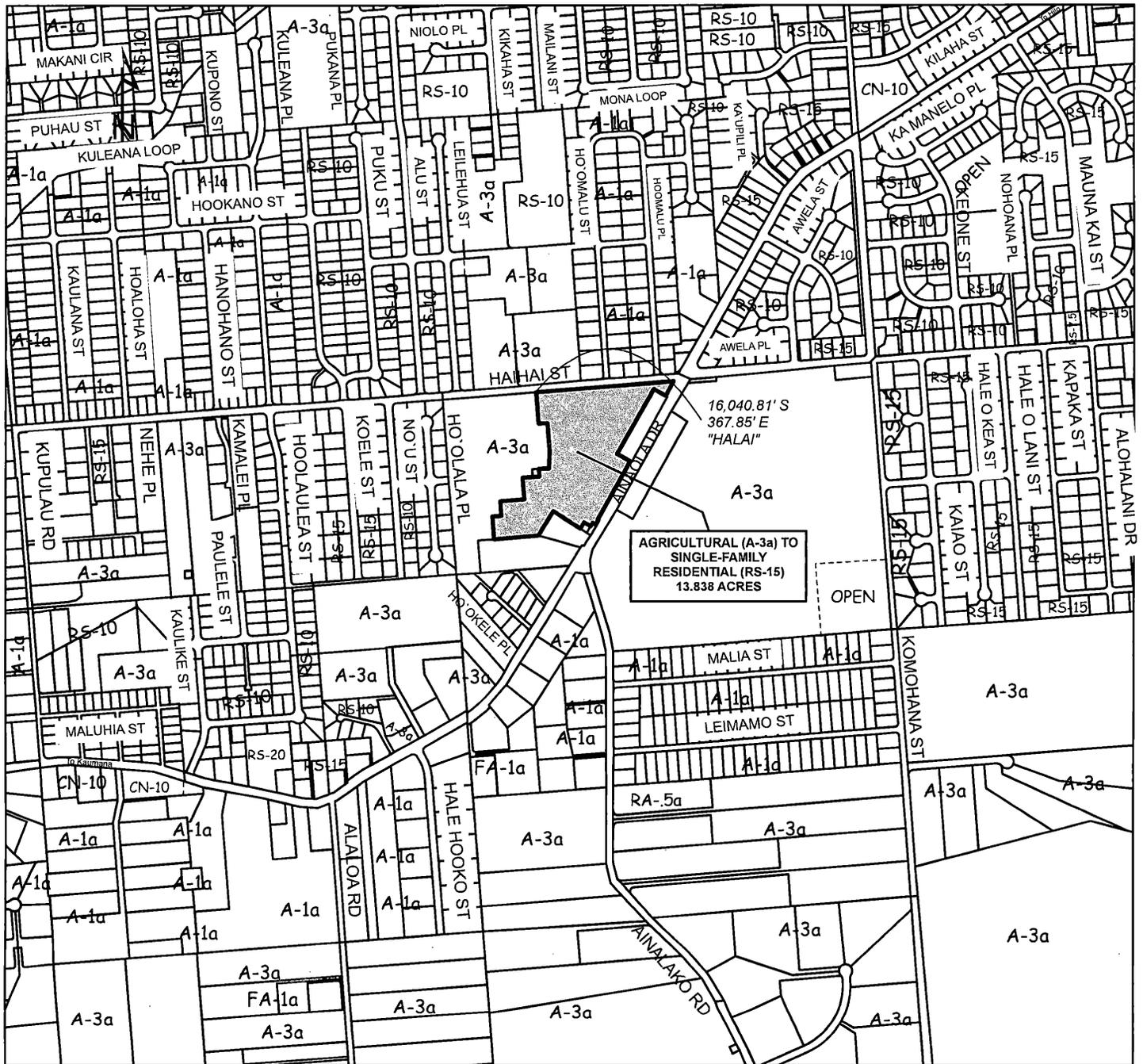
SECTION 3. Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this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

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

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

 Kona , Hawai'i
Date of Introduction: September 7, 2022
Date of 1st Reading: September 7, 2022
Date of 2nd Reading: September 21, 2022
Effective Date: October 4, 2022



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-32 (SOUTH HILO ZONE MAP) ARTICLE 8,
 CHAPTER 25 (ZONING) OF THE HAWAII COUNTY CODE 1983 (2016 EDITION, AS AMENDED),
 BY CHANGING THE DISTRICT CLASSIFICATION FROM
 AGRICULTURAL DISTRICT (A-3a) (MINIMUM BUILDING SITE OF 3 ACRES)
 TO SINGLE-FAMILY RESIDENTIAL DISTRICT (RS-15) (MINIMUM BUILDING SITE OF
 15,000 SQUARE FEET)
 AT AINAOLA, SOUTH HILO, HAWAII

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 2-4-039:025

DATE: March 29, 2022

EXHIBIT "A"

RJL, LLC.
 Map: 1442

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

COUNTY CLERK
 COUNTY OF HAWAII

2022 OCT -4 PM 4: 06

Introduced By: Ashley L. Kierkiewicz (B/R)
 Date Introduced: September 7, 2022
 First Reading: September 7, 2022
 Published: September 16, 2022

REMARKS: _____

Second Reading: September 21, 2022
 To Mayor: September 29, 2022
 Returned: October 4, 2022
 Effective: October 4, 2022
 Published: October 21, 2022

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Inaba			X	
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Lee Loy	X			
Richards	X			
Villegas	X			
	8	0	1	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Inaba	X			
Kāneali'i-Kleinfelder	X			
Kierkiewicz	X			
Kimball	X			
Lee Loy	X			
Richards	X			
Villegas	X			
	9	0	0	0

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



COUNCIL CHAIRPERSON

Approved/Disapproved this 4th day
 of October, 2022.



COUNTY CLERK



MAYOR, COUNTY OF HAWAII

Bill No.: 198
 Reference: C-919/PC-74
 Ord No.: **22 100**