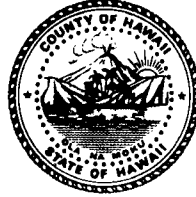


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. **14 108**

BILL NO. 268
(DRAFT 2)

AN ORDINANCE AMENDING SECTION 25-8-28 (KA'Ū DISTRICT ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – ONE ACRE (A-1a) TO VILLAGE COMMERCIAL – 40,000 SQUARE FEET (CV-40) AT KAHUKU, KA'Ū, HAWAI'I, COVERED BY TAX MAP KEY 9-2-093:039, 040, 041 & 042.

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

SECTION 1. Section 25-8-28, Article 8, Chapter 25 (Zoning Code) of the Hawai'i County Code 1983 (2005 Edition), is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Kahuku, Ka'ū, Hawai'i, shall be Village Commercial – 40,000 square feet (CV-40):

Beginning at the Easternmost corner of this parcel of land, being also the Northernmost corner of Lot 10 of Block 157 of Hawaiian Ocean View Estates (File Plan 787) and being a point on the Southwesterly side of Lehua Lane, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O KAMA OA" being 1,976.65 feet North and 4,186.36 feet West and running by azimuths measured clockwise from True South:

1. 19° 35' 374.80 feet along Lot 10 of Block 157 of Hawaiian Ocean View Estates (File Plan 787) and along the remainder of Grant 2791 to C. C. Harris to a point;
2. 109° 34' 52" 325.00 feet along the Northeasterly side of Hawai'i Belt Road to a point;

3. 199° 35' 606.84 feet along Lot 5 of Block 157 of Hawaiian Ocean View Estates (File Plan 787) feet to a point;
 4. 251° 01' 30" 89.52 feet along the Southeasterly side of Keaka Parkway to a point;
- Thence, following along the Southwesterly intersection of Keaka Parkway and Lehua Lane on a curve to the right with a radius of 20.00 feet, the chord azimuth and distance being:
5. 296° 01' 30" 28.28 feet to a point;
 6. 341° 01' 30" 364.02 feet along the Southwesterly side of Lehua Lane to the point of beginning and containing an area of 4.143 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, Hawai'i County Code 1983 (2005 Edition), the County Council finds the following conditions are:

Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or

- (1) 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, its successors or assigns, shall be responsible for complying with all of the stated conditions of approval.

- B. Tax Map Keys 9-2-93: 39, 40, 41 and 42 shall be consolidated within one (1) year from the effective date of this ordinance.
- C. Prior to the issuance of a Certificate of Occupancy for any commercial use on the subject project site, the applicant shall construct and maintain an onsite water storage and delivery system that will provide adequate water service to all uses established upon the subject project site, meeting with the requirements of the Department of Health and the Fire Department for sanitation and firefighting purposes, respectively.
- D. Construction of the proposed development shall be completed within five (5) years from the effective date this ordinance. Prior to construction, the applicant, successors or assigns shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and/or proposed structures, paved driveway access and paved parking stalls associated with the proposed development. Landscaping shall also be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements) standards for CV zones adjoining a RS zone.
- E. Single-family, double-family and multiple-family residential uses, boarding facilities, rooming or lodging houses, hotels, lodges and other types of visitor accommodations shall be directly serviced by a potable water system meeting with the requirements of the Department of Water Supply.
- F. Direct access to and from the Hawai'i Belt Highway shall be prohibited. The applicant may provide an emergency egress via a break-away gate to the State Highway for use only in an emergency.

- G. Access to the subject project site shall be restricted to Lehua Lane, which shall be improved with a minimum pavement width of 24 feet along its entire length from its intersection with the Hawai'i Belt Highway to and including its intersection with Keaka Parkway.
- H. The applicant shall construct all recommended improvements to the Hawai'i Belt Highway at its intersection with Lehua Lane as may be required by the State Department of Transportation prior to the issuance of a Certificate of Occupancy for any portion of the proposed development.
- I. Any increase in road maintenance fees to accommodate uses generated by the proposed development that is assessed by the HOVE Community Association or the HOVE Road Maintenance Corporation shall be the responsibility of the applicant, its successors or assigns.
- 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 licensed civil engineer and submitted to the Department of Public Works prior to issuance of a construction permit. Any recommended drainage improvements, if required, shall be constructed meeting with the approval of the Department of Public Works prior to receipt of a Certificate of Occupancy.
- K. All earthwork activity shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawaii County Code.
- L. Wastewater disposal shall meet the specifications and requirements of the Department of Health.
- M. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources-Historic Preservation Division (DLNR-HPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-HPD when it finds that sufficient

mitigative measures have been taken.

- 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 plan approval for any new residential structures.
- O. If the applicant, its successors, or assigns develops a water system meeting the requirements of the Department of Water Supply sufficient to support the development of residential units on the subject project site, the applicant shall make its fair share contribution to mitigate the potential regional impacts of the properties 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 Plan Approval. The fair share contribution for each lot shall be based on the actual number of residential units 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 maximum combined value of **\$8,542.61** per multiple family residential unit (**\$13,312.70** 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 multiple family residential unit (single family residential units) shall be allocated as follows:

1. **\$4,213.83** per multiple family residential unit (**\$6,419.62** per single family residential unit) to the County to support park and recreational improvements and facilities;
2. **\$133.18** per multiple family residential unit (**\$309.68** per single family residential unit) to the County to support police facilities;
3. **\$409.67** per multiple family residential unit (**\$611.66** per single family residential unit) to the County to support fire facilities;
4. **\$182.59** per multiple family residential unit (**\$267.79** per single family residential unit) to the County to support solid waste facilities; and
5. **\$3,603.34** per multiple family residential unit (**\$5,703.94** 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.

- P. 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.
- Q. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- R. An annual progress report shall be submitted to the Planning Director prior to the anniversary date of enactment of the ordinance. The report shall include, but not be limited to, the status of the development and to what extent the conditions of approval are being complied with. This condition


shall remain in effect until all of the conditions of approval have been complied with and the Planning Director acknowledges that further reports are not required.

- S. An initial extension of time for the performance of conditions within the ordinance may be granted by the Planning 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(s), its 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 granted 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).
 - 5. If the applicant(s) should require an additional extension of time, the Planning Director shall submit the applicant's request to the Planning Commission and County Council for appropriate action.
- T. Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the subject area to its original or more appropriate designation.

SECTION 3. In the event that any portion of this ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

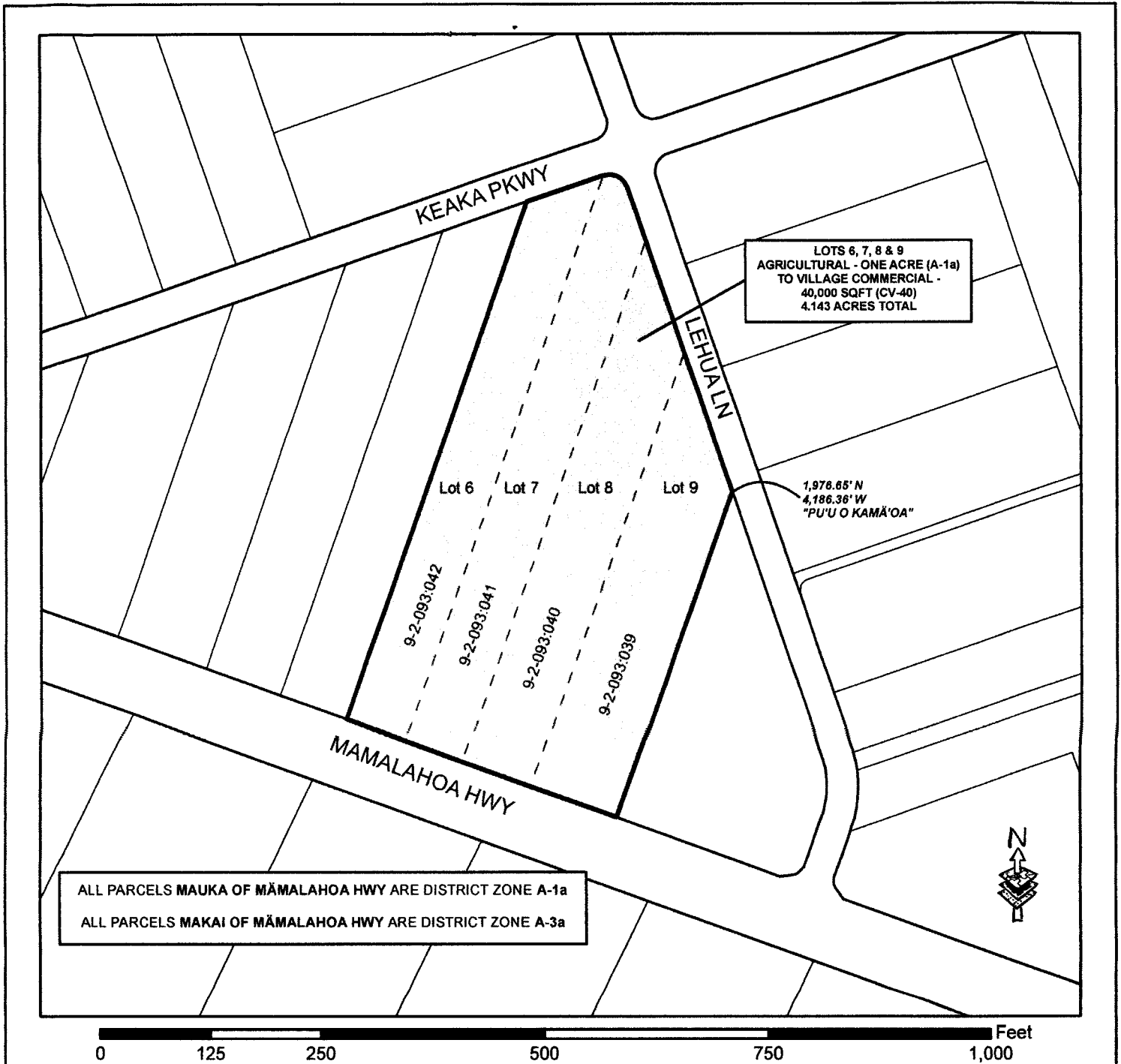
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAI'I

 Kona , Hawai'i
Date of Introduction: August 6, 2014
Date of 1st Reading: August 6, 2014
Date of 2nd Reading: August 20, 2014
Effective Date: September 12, 2014

REFERENCE **Comm.** 939.4



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-28 (KA'Ū DISTRICT ZONE MAP) ARTICLE 8,
 CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE 1983 (2005 EDITION),
 BY CHANGING THE DISTRICT CLASSIFICATION FROM
 AGRICULTURAL - 1 ACRE (A-1a) TO
 VILLAGE COMMERCIAL - 40,000 SQFT (CV-40),
 AT KAHUKU, KA'Ū, HAWAII

MAP PREPARED BY:
 COUNTY OF HAWAII, PLANNING DEPARTMENT

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

COUNTY CLERK
 COUNTY OF HAWAII

2014 SEP 12 PM 2: 51

Introduced By: Zendo Kern (B/R)
 Date Introduced: August 6, 2014
 First Reading: August 6, 2014
 Published: August 16, 2014

REMARKS: _____

Second Reading: August 20, 2014
 To Mayor: August 28, 2014
 Returned: September 12, 2014
 Effective: September 12, 2014
 Published: September 20, 2014

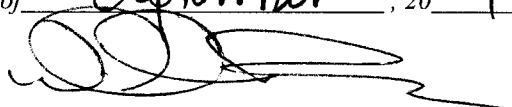
REMARKS: _____


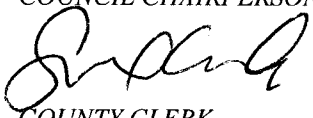
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Eoff	X			
Ford	X			
Ilagan	X			
Kanuha	X			
Kern	X			
Onishi	X			
Poindexter	X			
Wille	X			
Yoshimoto	X			
	9	0	0	0

(Draft 2)

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Eoff	X			
Ford	X			
Ilagan	X			
Kanuha	X			
Kern	X			
Onishi	X			
Poindexter	X			
Wille	X			
Yoshimoto	X			
	9	0	0	0

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

Approved/Disapproved this 12th day
 of September, 2014

 MAYOR, COUNTY OF HAWAI'I


 COUNCIL CHAIRPERSON

 COUNTY CLERK

Bill No.: 268 (Draft 2)
 Reference: C-939.4/PC-74
 Ord No.: 14 108