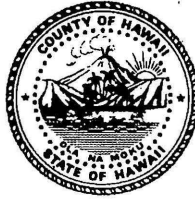


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 20 41 BILL NO. 160

AN ORDINANCE AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING) OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), BY CHANGING THE DISTRICT CLASSIFICATION FROM SINGLE FAMILY RESIDENTIAL – 7,500 SQUARE FEET (RS-7.5) AND MULTIPLE FAMILY RESIDENTIAL – 3,500 SQUARE FEET (RM-3.5) TO RESIDENTIAL & AGRICULTURAL – THREE ACRES (RA-3a) AND SINGLE FAMILY RESIDENTIAL – 20,000 SQUARE FEET (RS-20) AT PĀHOEHOE 2ND, NORTH KONA, HAWAI'I, COVERED BY TAX MAP KEY: 7-7-008:120 AND 7-7-008:124.

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

SECTION 1. Section 25-8-3, 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 Pāhoehoe 2nd, North Kona District, Hawai'i, shall be Residential & Agricultural – 3 acres (RA-3a) and Single Family Residential – 20,000 square feet (RS-20):

LOT A-1-A (RM 3.5 to RS-20)

Beginning at the Southeasterly corner of this portion of Lot A-1-A, being also a point on the Southerly boundary of Lot A-1-A and a point on the Northerly boundary of Lot 2-A-1, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAHELO" being 8,981.23 feet South and 7,552.16 feet East and running by azimuths measured clockwise from True South:

Thence, for the next seven (7) courses following along stonewall and along Lot 2-A-1 and Grant 1751 to Kahanele:

1.	79°	35'	43"	84.51	feet to a point;
2.	73°	19'	43"	125.60	feet to a point;
3.	85°	07'	43"	183.70	feet to a point;
4.	68°	15'	43"	85.00	feet to a point;
5.	89°	50'	43"	48.30	feet to a point;
6.	83°	01'	43"	435.00	feet to a point;
7.	94°	10'	40"	401.34	feet to a point;
8.	157°	15'		225.93	feet along the Easterly side of Parcel 14 (F.A.P. No. RS-0187 (004) to a point;

Thence, following along the Easterly side of Parcel 14 (F.A.P. No. RS-0187 (004) on a curve to the left with a radius of 1,505.00 feet, the chord azimuth and distance being:

9.	152°	26'	42.5"	252.12	feet to a point;
10.	56°	24'		22.71	feet along the Easterly side of Parcel 14 (F.A.P. No. RS-0187 (004) to a point;
11.	146°	24'		20.38	feet along the Easterly side of Parcel 14 (F.A.P. No. RS-0187 (004) to a point;

Thence, for the next four (4) courses following along Lot 20-A and along Grant 1857 to Paakea:

12.	262°	33'	26"	37.98	feet to a point;
13.	268°	28'	40"	23.94	feet to a point;
14.	273°	54'		12.31	feet to a point;
15.	189°	22'		5.23	feet to a point;

Thence, for the next five (5) courses following along stonewall, Lot A and Grant 2033 to Haleluhi:

16.	267°	48'	50"	167.42	feet to a point
17.	267°	30'	40"	685.53	feet to a point;
18.	262°	29'	10"	62.61	feet to a point;
19.	261°	17'	40"	399.11	feet to a point;
20.	261°	30'	25"	131.00	feet to a point;
21.	351°	30'	25"	453.17	feet along the remainders of Lot A-1-A, Royal Patent 1668, Land Commission Award 8520-B, Apana 3 to Lahilahi to the point of beginning and containing an area of 15.393 Acres.

LOT A-1-A (RS 7.5 to RS-20)

Beginning at the Southwesterly corner of this portion of Lot A-1A, being also a point on the Southerly boundary of Lot A-1-A and a point on the Northerly boundary of Lot 2-A-1, the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAHELO" being 8,981.23 feet South and 7,552.16 feet East and running by azimuths measured clockwise from True South:

1.	171°	30'	25"	453.17	feet along the remainder of Lot A-1-A to a point;
2.	261°	30'	25"	280.40	feet along stonewall, Lot A and Grant 2033 to Haleluhi to a point;
3.	258°	03'	25"	182.15	feet along stonewall, Lot A and Grant 2033 to a point;
4.	357°	37'	59"	59.89	feet along the Westerly side of La'aloa Avenue to a point;

Thence, following along the Westerly side of La'aloa Avenue on a curve to the right with a radius of 795.00 feet, the chord azimuth and distance being:

5.	13°	31'	56"	435.57	feet to a point;
6.	81°	42'	43"	242.62	feet along stonewall and along Lot 2-A-1 and Grant 1751 to Kahanele to a point;
7.	79°	35'	43"	49.89	feet along stonewall and along Lot 2-A-1 and Grant 1751 to Kahanele to the point of beginning and containing an area of 4.204 Acres.

LOT A-1-B (RS 7.5 to RA-3a)

Beginning at the Southwesterly corner of this parcel of land, being also the Southwesterly corner of La'aloa Avenue (formerly Lot A-1-C) and being a point on the Northerly boundary of Lot 7 of Ali'i Heights, Unit 2, Phase 1 (File Plan 2372), the coordinates of said point of beginning referred to Government Survey Triangulation Station "KAHELO" being 8,908.02 feet South and 8,000.42 feet East and running by azimuths measured clockwise from True South:

Thence, from a tangent azimuth of 202° 59' 51" following along the Easterly side of La'aloa Avenue (formerly Lot A-1-C) on a curve to the left with a radius of 925.00 feet, the chord azimuth and distance being:

1.	190°	18'	55"	406.16	feet to a point;
2.	177°	37'	59"	81.82	feet along the Easterly side of La'aloa Avenue (formerly Lot A-1-C) to a point;

Thence, for the next three (3) courses following along stonewall, Lot B and long Grant 2033 to Haleluhi:

3.	258°	03'	25"	121.50	feet to a point;
4.	255°	56'	35"	713.56	feet to a point;
5.	254°	27'		48.91	feet to a point;

- | | | | | | |
|----|------|-----|-----|-------|---|
| 6. | 260° | 55' | 30" | 34.38 | feet along stonewall, Lot B, Grant 2033 to Haleluhi and the Westerly side of Kuakini Highway (F.A.S.P. No. S-229 (1)) to a point; |
|----|------|-----|-----|-------|---|

Thence, for the next three (3) courses following along the Westerly side of Kuakini Highway (F.A.S.P. No. S-229 (1)).

Thence, from a tangent azimuth of 334° 11' 43" following on a curve to the right with a radius of 5,679.58 feet, the chord azimuth and distance being:

- | | | | | | |
|----|------|-----|-----|--------|------------------|
| 7. | 334° | 54' | 19" | 140.76 | feet to a point; |
| 8. | 245° | 36' | 55" | 10.00 | feet to a point; |

Thence, from a tangent azimuth of 335° 36' 55" following on a curve to the right with a radius of 5,689.58 feet, the chord azimuth and distance being:

- | | | | | | |
|----|------|-----|-----|--------|------------------|
| 9. | 337° | 03' | 37" | 286.95 | feet to a point: |
|----|------|-----|-----|--------|------------------|

Thence, for the next fifteen (15) courses following along stonewall, and along Grant 1751 to Kahanele:

- | | | | | | |
|-----|-----|-----|-----|--------|--|
| 10. | 83° | 58' | 43" | 58.80 | feet along Lot 7 to a point; |
| 11. | 63° | 51' | 43" | 56.40 | feet along Lot 7 to a point; |
| 12. | 72° | 00' | 13" | 172.90 | feet along Lot 7 and Lot 6 to a point; |
| 13. | 77° | 38' | 43" | 79.30 | feet along Lot 6 to a point; |
| 14. | 84° | 39' | 43" | 37.70 | feet along Lot 6 to a point; |
| 15. | 74° | 03' | 43" | 92.70 | feet along Lot 6 to a point; |
| 16. | 64° | 26' | 43" | 92.20 | feet along Lot 6 and Lot 5 to a point; |
| 17. | 84° | 26' | 43" | 85.00 | feet along Lot 5 to a point; |
| 18. | 70° | 39' | 43" | 140.70 | feet along Lot 4 and Lot 3 to a point; |

19.	74°	36'	43"	50.50	feet along Lot 3 to a point;
20.	89°	41'	43"	55.20	feet along Lot 3 and Lot 2 to a point;
21.	86°	46'	43"	49.00	feet along Lot 2 to a point;
22.	72°	57'	43"	73.60	feet along Lot 2 to a point;
23.	67°	30'	43"	36.13	feet along Lot 2 to a point;
24.	72°	27'		145.78	feet along Lot 8 and Lot 7 of Ali'i Heights, Unit 2, Phase I (File Plan 2372) to the point of beginning and containing an area of 10.352 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 (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, its successors or assigns shall be responsible for complying with all stated conditions of approval.
- B. Prior to any land alteration or issuance of Final Subdivision Approval (whichever occurs first), the applicant, its successors or assigns shall secure a Special

Management Area Permit in compliance with Hawai'i Revised Statutes 205A and Planning Commission Rules of Practice and Procedure for the Special Management Area.

- C. A Data Recovery Plan and Preservation Plan for historic and cultural resources identified in the April 2006 Archaeological Inventory Survey prepared by Haun & Associates shall be prepared and approved by the State Historic Preservation Division prior to submittal of a Special Management Area assessment or permit application.
- D. The required water commitment payment for thirty-seven (37) water commitments shall be submitted to the Department of Water Supply in accordance with its "Water Commitment Guidelines Policy" within one hundred and eighty (180) days from the effective date of this ordinance. The applicant, its successors or assigns are responsible for maintaining valid water commitments to support development of the property until such time that required water facilities charges are paid in full.
- E. Final Subdivision Approval for development of the property shall be secured from the Planning Director within five (5) years from the effective date of this ordinance.
- F. No lots shall have direct access from Kuakini Highway.
- G. The applicant, its successors or assigns shall prepare and submit to the State Department of Transportation for approval a traffic assessment report for either or both parcels prior to future development. The applicant, its successors or assigns shall be responsible for any recommended improvements at the La'aloa Avenue-Kuakini Highway intersection area at their cost.

- H. Access to the property at La‘aloa Avenue shall be restricted to right-in, right-out movements only unless the median in La‘aloa Avenue is removed by the applicant, its successors or assigns. The median removal shall be designed and submitted to the Department of Public Works for review and approval.
- I. The location of the access(es) off La‘aloa Avenue shall meet the approval of the Department of Public Works and shall not interfere with any existing drainage features along the property frontage.
- J. No lots shall have direct access from La‘aloa Avenue. Properties fronting La‘aloa Avenue shall have a no vehicular access planting screen easement along the La‘aloa Avenue property boundary and this easement shall be delineated on all plans submitted to the County for subdivision approval.
- K. The property shall have no vehicular access to the future Ali‘i Highway. Properties fronting the future Ali‘i Highway shall have a no vehicular access planting screen easement along the Ali‘i Highway property boundary and this easement shall be delineated on all plans submitted to the County for subdivision approval.
- L. Install streetlights, signs and markings, meeting with the approval of the Department of Public Works-Traffic Division.
- M. All work within the County Right-of-Way shall conform to Chapter 22 (County Streets) of the Hawai‘i County Code.
- N. All development generated runoff shall be maintained on site and shall not be directed toward adjacent properties.
- O. All earthwork and grading activity shall conform to Chapter 10, Erosion and Sedimentation Control of the Hawai‘i County Code.

- P. The applicant, its successors or assigns shall conduct a sewer study in accordance with the then applicable wastewater system design standards prior to approval to connect to the County sewer system, and shall provide such sewer line or other facility improvements as the Director of the Department of Environmental Management may reasonably require, which the sewer study may indicate are advisable for mitigation of impacts of developing the property.
- Q. Restrictive covenants in the deeds of all proposed lots within the property shall give notice that the terms of the zoning ordinance prohibit the construction of a second dwelling unit and condominium property regimes on each lot. This restriction may be removed by amendment of this ordinance by the County Council. A copy of the proposed covenant(s) to be recorded with the State 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.
- R. The applicant, its successors, or assigns shall make a fair share contribution to mitigate the potential regional impacts of development 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 shall be based on the actual number of additional lots and/or residential units created. 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 **\$14,596.67** per single family

residential unit/lot. The total amount shall be determined with the actual number of units and/or lots according to the calculation and payment provisions set forth in this condition. The fair share contribution shall be allocated as follows:

1. **\$7,038.77** per single family residential unit/lot to the County to support park and recreational improvements and facilities;
2. **\$339.55** per single family residential unit/lot to the County to support police facilities;
3. **\$670.66** per single family residential unit/lot to the County to support fire facilities;
4. **\$293.62** per single family residential unit/lot to the County to support solid waste facilities; and
5. **\$6,254.07** 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. This condition shall not apply to any housing units constructed within the rezone area defined as 'affordable' by Chapter 11 (Housing), Hawai'i County Code and so certified by the County Office of Housing and Community Development.

- S. 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.

- T. 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.
- U. The applicant, its successors and/or assigns shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
- V. 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, 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).

W. 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.

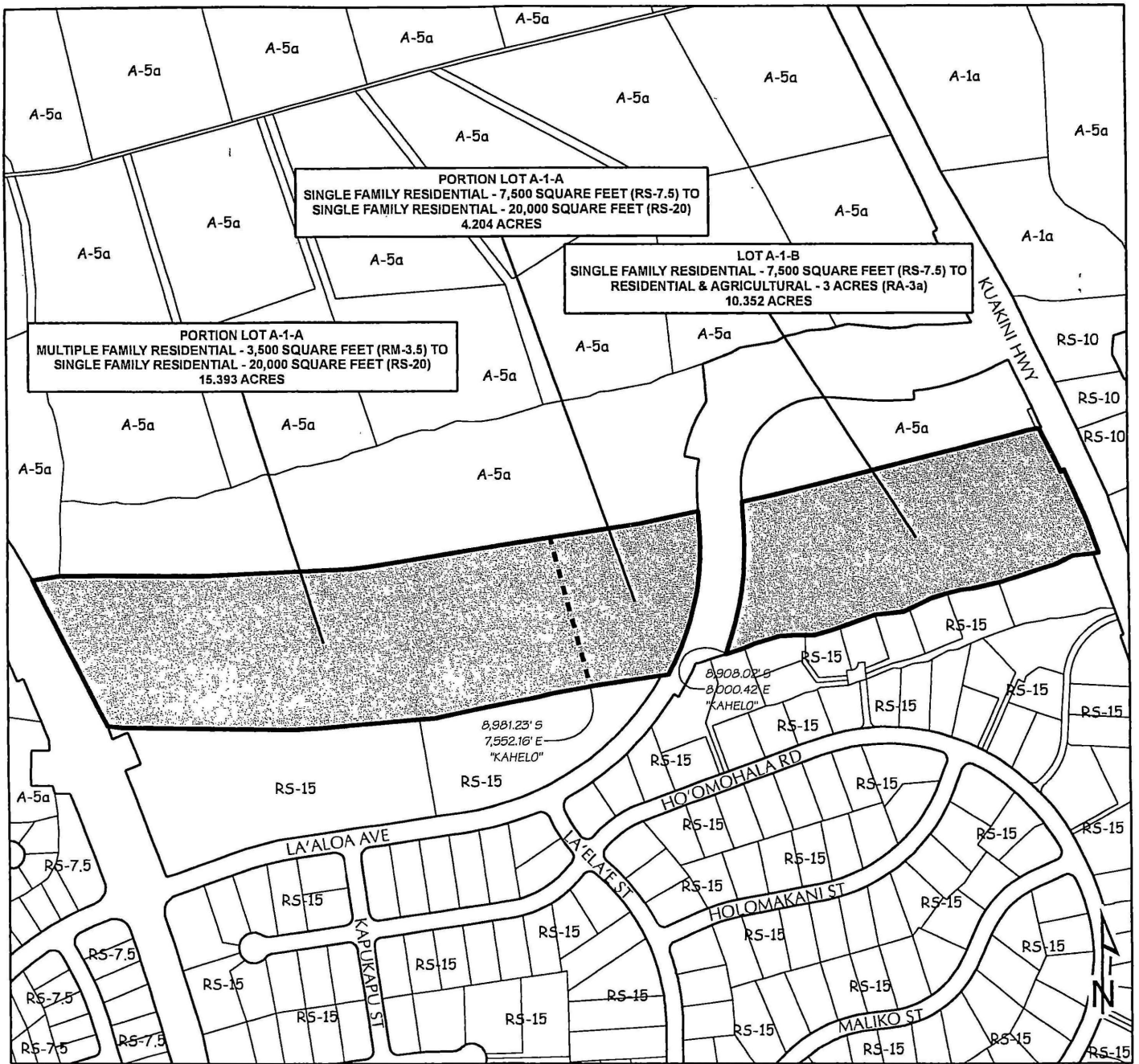
INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAII

 Hilo , Hawai'i
Date of Introduction: May 6, 2020
Date of 1st Reading: May 6, 2020
Date of 2nd Reading: May 20, 2020
Effective Date: May 28, 2020

REFERENCE Comm. 889



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-8-3 (NORTH KONA ZONE MAP) ARTICLE 8,
CHAPTER 25 (ZONING) OF THE HAWAII COUNTY CODE 1983 (2016 EDITION, AS AMENDED),
BY CHANGING THE DISTRICT CLASSIFICATION FROM
SINGLE FAMILY RESIDENTIAL - 7,500 SQUARE FEET (RS-7.5) AND
MULTIPLE FAMILY RESIDENTIAL - 3,500 SQUARE FEET (RM-3.5) TO
RESIDENTIAL & AGRICULTURAL - THREE ACRES (RA-3a) AND
SINGLE FAMILY RESIDENTIAL - 20,000 SQUARE FEET (RS-20)
AT PĀHOEHOE 2ND, NORTH KONA, HAWAII

MAP PREPARED BY:
COUNTY OF HAWAII, PLANNING DEPARTMENT

TMK: (3) 7-7-008:120
& 7-7-008:124

DATE: September 20, 2019

EXHIBIT "A"

BNP Paribas VPG Brookline CRE, LLC
Map: 1411

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

COUNTY CLERK
 COUNTY OF HAWAII

2020 MAY 28 AM 13:01

Introduced By: Ashley L. Kierkiewicz (B/R)
 Date Introduced: May 6, 2020
 First Reading: May 6, 2020
 Published: May 15, 2020

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David	X			
Eoff	X			
Kaneali'i-Kleinfelder	X			
Kierkiewicz	X			
Lee Loy	X			
Poindexter	X			
Richards	X			
Villegas	X			
	9	0	0	0

REMARKS: _____

Second Reading: May 20, 2020
 To Mayor: May 26, 2020
 Returned: May 28, 2020
 Effective: May 28, 2020
 Published: June 5, 2020


ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Chung	X			
David			X	
Eoff	X			
Kaneali'i-Kleinfelder	X			
Kierkiewicz	X			
Lee Loy	X			
Poindexter	X			
Richards	X			
Villegas	X			
	8	0	1	0

REMARKS: _____

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

~~Approved~~/Disapproved this 28th day
 of May, 2020.


 MAYOR, COUNTY OF HAWAII


 COUNCIL CHAIRPERSON

 COUNTY CLERK

Bill No.: 160
 Reference: C-889/Waived PC
 Ord No.: 20 41