

COUNCIL OF THE COUNTY OF MAUI
LAND USE COMMITTEE

October 19, 2012

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Land Use Committee, having met on October 3, 2012, makes reference to County Communication 12-179, from Councilmember Donald G. Couch, Jr., transmitting a proposed resolution entitled "REFERRING TO THE MAUI PLANNING COMMISSION PROPOSED BILLS TO ENACT A COMMUNITY PLAN AMENDMENT AND A CHANGE IN ZONING FOR PROPERTY SITUATED AT 101 A, B, AND C KUAU PLACE, PAIA, MAUI, HAWAII, TAX MAP KEY NUMBER (2) 2-6-009:024". The purpose of the proposed resolution is to refer to the Maui Planning Commission the following proposed bills:

1. A proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE PAIA-HAIKU COMMUNITY PLAN AND LAND USE MAP FROM AGRICULTURAL TO RURAL FOR PROPERTY SITUATED AT 101 A, B, AND C KUAU PLACE, PAIA, MAUI, HAWAII, TAX MAP KEY NUMBER (2) 2-6-009:024". The purpose of the proposed bill is to amend the Paia-Haiku Community Plan and Land Use Map from Agricultural to Rural for property located at 101 A, B, and C Kuau Place, Paia, Maui, Hawaii, consisting of approximately 2.140 acres ("subject property").
2. A proposed bill entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL DISTRICT TO RU-0.5 RURAL DISTRICT FOR PROPERTY SITUATED AT 101 A, B, AND C KUAU PLACE, PAIA, MAUI, HAWAII, TAX MAP KEY NUMBER (2) 2-6-009:024". The purpose of the proposed bill is to change the zoning from Agricultural District to RU-0.5 Rural District for the subject property.

Your Committee is in receipt of proposed Community Plan Map CP-718 and proposed Land Zoning Map L-1525, consistent with the proposed land use changes.

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Committee
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According to the County's real property tax database, Unit A is owned by Kurt and Angela Magness, Unit B is owned by Philip Kai and Beverly Ann Binney, and Unit C is owned by Robert Hilbun. Councilmember Couch initiated the Community Plan Amendment and Change in Zoning at the request of the property owners. The property owners are in full support of the requested changes.

Your Committee received testimony from owners of two of the three properties, Units A and B. The owners stated that the land use changes would undo an error made when the County comprehensively zoned properties in Paia. According to the owners, when the zoning for their property was changed from Interim to Agricultural District, their houses at 101 Kuau Place became existing, nonconforming structures.

The owners stated that they are not interested in increasing the density on their properties, and they do not intend to further subdivide, citing inadequate infrastructure to support a subdivision. One of the owners does intend to add another room onto his home to accommodate an increase in family size. The owners represented that they would like to bring the land use designations for their property into conformance with existing uses on the property, and feel it is unfair that they be required to take the steps necessary to legitimize what was already on their property at the time of the comprehensive zoning.

The Deputy Planning Director advised your Committee that the comprehensive zoning of properties in Paia went into effect in early 1999.

Your Committee noted that it would more fully evaluate the proposed land use changes following a review of recommendations by the Maui Planning Commission.

Your Committee voted 8-0 to recommend adoption of the proposed resolution. Committee Chair Carroll, Vice-Chair White, and members Baisa, Cochran, Couch, Mateo, Pontanilla, and Victorino voted "aye". Committee member Hokama was excused.

Your Land Use Committee RECOMMENDS that Resolution _____, attached hereto, entitled "REFERRING TO THE MAUI PLANNING COMMISSION PROPOSED BILLS TO ENACT A COMMUNITY PLAN AMENDMENT AND A CHANGE IN ZONING FOR PROPERTY SITUATED AT 101 A, B, AND C KUAU PLACE, PAIA, MAUI, HAWAII, TAX MAP KEY NUMBER (2) 2-6-009:024", be ADOPTED.

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LAND USE COMMITTEE

October 19, 2012
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Committee
Report No. _____

This report is submitted in accordance with Rule 8 of the Rules of the Council.



ROBERT CARROLL, Chair

lu:cr:12035aa:cmn

Resolution

No. _____

REFERRING TO THE MAUI PLANNING COMMISSION PROPOSED
BILLS TO ENACT A COMMUNITY PLAN AMENDMENT AND A
CHANGE IN ZONING FOR PROPERTY SITUATED AT 101 A, B, AND C KUAU
PLACE, PAIA, MAUI, HAWAII, TAX MAP KEY NUMBER (2) 2-6-009:024

WHEREAS, the Council is considering a Community Plan Amendment from Agricultural to Rural for property consisting of approximately 2.140 acres situated at Paia, Maui, Hawaii, identified for real property tax purposes as Tax Map Key Number (2) 2-6-009:024 ("subject property"); and

WHEREAS, the Council is considering a Change in Zoning from Agricultural District to RU-0.5 Rural District for the subject property; and

WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require that the appropriate planning commission review proposed land use ordinances and amendments to the General Plan and provide findings and recommendations to the Council; now, therefore,

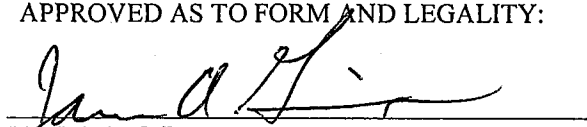
BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby refers the proposed bill entitled "A BILL FOR AN ORDINANCE TO AMEND THE PAIA-HAIKU COMMUNITY PLAN AND LAND USE MAP FROM AGRICULTURAL TO RURAL FOR PROPERTY SITUATED AT 101 A, B, AND C KUAU PLACE, PAIA, MAUI, HAWAII, TAX MAP KEY NUMBER: (2) 2-6-009:024", a copy of which is attached hereto as Exhibit "1" and made a part hereof, to the Maui Planning Commission for appropriate action pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended; and
2. That it hereby refers the proposed bill entitled "A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM AGRICULTURAL DISTRICT TO RU-0.5 RURAL DISTRICT FOR PROPERTY SITUATED AT 101 A, B, AND C KUAU PLACE, PAIA, MAUI, HAWAII, TAX MAP KEY NUMBER (2) 2-6-009:024", a copy of which is attached hereto as Exhibit "2" and made a part hereof, to the Maui Planning Commission for appropriate action pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended; and
3. That it respectfully requests that the Maui Planning Commission transmit its findings and recommendations to the Council as expeditiously as possible; and

Resolution No. _____

4. That certified copies of this resolution be transmitted to the Mayor, the Planning Director, and the Maui Planning Commission.

APPROVED AS TO FORM AND LEGALITY:



JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui
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ORDINANCE NO. _____

BILL NO. _____ (2012)

A BILL FOR AN ORDINANCE TO AMEND THE
PAIA-HAIKU COMMUNITY PLAN AND LAND USE MAP
FROM AGRICULTURAL TO RURAL FOR PROPERTY SITUATED
AT 101 A, B, AND C KUAU PLACE, PAIA, MAUI, HAWAII,
TAX MAP KEY NUMBER (2) 2-6-009:024

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapter 2.80B, Maui County Code, the Paia-Haiku Community Plan and Land Use Map is hereby amended from Agricultural to Rural for property situated at Paia, Maui, Hawaii, and identified for real property tax purposes by Tax Map Key Number (2) 2-6-009:024, comprising approximately 2.140 acres, and more particularly described in Exhibit "A", attached hereto and made a part hereof, and in Community Plan Map No. CP-_____, which is on file in the Office of the County Clerk of the County of Maui, and by reference made a part hereof.

SECTION 2. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:

JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

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EXHIBIT " 9 "

EXHIBIT "A"

All of that certain parcel of land, being LOT 2, a portion of Lot A-2 of the Kuau Beach Subdivision No. 1, being also a portion of Section 3 of the Hamakuapoko Hui Lands and a portion of the land deeded by the Board of Education to the Trustees of the Oahu College dated January 30, 1860, recorded in Liber 12 at Page 403, situated at Paia, Hamakuapoko, Makawao, Island and County of Maui, State of Hawaii, described as follows:

Beginning at a 1/2-inch pipe at the easterly corner of this lot, on the northwesterly side of Hana Highway, said pipe being also the southerly corner of Lot 3 of the Kuau Beach Subdivision No. 3, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUUNENE 2" being 8,071.86 feet north and 7,152.86 feet east and running by azimuths measured clockwise from true South:

1. 58° 47' 9.82 feet along the northwesterly side of Hana Highway to a 1/2-inch pipe;

2. Thence along same on a curve to the left with a radius of 2,893.00 feet, the chord azimuth and distance being:

 56° 58' 183.43 feet to a 1/2-inch pipe;

3. 145° 09' 472.04 feet along Lot 1 of the Kuau Beach Subdivision No. 3 to a 1/2-inch pipe;

4. 242° 04' 97.91 feet along the remainder of Section 3 of the hamakuapoko Hui Lands (being along Tax Map Key: (2)2-6-009-018) to a 1/2-inch pipe;

5. 260° 08' 134.55 feet along the remainder of Section 3 of the Hamakuapoko Hui Lands (being along Tax Map Key: (2)2-6-009-019) and along Lot 4 of the Kuau Beach Subdivision No. 3 to a 1/2-inch pipe;

6.	328° 47'	410.69	feet along Lot 3 of the Kauai Beach Subdivision No. 3 to the point of beginning and containing an area of 2.140 acres, more or less.
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Together with an easement for access and drainage purposes over Easement A-3 described as follows:

Beginning at a point at the southeasterly corner of this easement, on the northwesterly side of Hana Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUUNENE 2" being 8,196.72 feet north and 7,358.87 feet east and running by azimuths measured clockwise from true South:

1. Over and across Lot 3 of the Kauai Beach Subdivision No. 3 on a curve to the left with a radius of 30.00 feet, the chord azimuth and distance being:

193° 47'	42.43	feet to a point;
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2. 148° 47' 197.10 feet over and across same to a point;
3. Thence over and across same on a curve to the left with a radius of 4.00 feet, the chord azimuth and distance being:

117° 08' 30"	4.20	feet to a point;
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4. 85° 30' 300.80 feet over and across same to a point;
5. 148° 47' 44.78 feet along Lot 2 of the Kauai Beach Subdivision No. 3 to a point;
6. 265° 30' 320.93 feet along Lot 4 of the Kauai Beach Subdivision No. 3 to a 1/2 inch pipe;

7. Thence along same on a curve to the right with a radius of 44.00 feet, the chord azimuth and distance being:
- | | | | |
|------|---------|-------|--------------------------|
| 297° | 08' 30" | 46.17 | feet to a 1/2 inch pipe; |
|------|---------|-------|--------------------------|
8. 328° 47' 197.10 feet along same to a 1/2 inch pipe;
9. Thence along same on a curve to the left with a radius of 30.00 feet, the chord azimuth and distance being:
- | | | | |
|------|-----|-------|--------------------------|
| 283° | 47' | 42.43 | feet to a 1/2 inch pipe; |
|------|-----|-------|--------------------------|
10. 58° 47' 100.00 feet along the northwesterly side of Hana Highway to the point of beginning and containing an area of 22,964 square feet or 0.527 acre, more or less.

Being the same premises conveyed to Grantor herein by Deed dated December 16, 1997, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 97-180576.

SUBJECT, HOWEVER, to the following:

1. Grant to Charles Rodrigues and Gladys D. Rodrigues, husband and wife, dated March 17, 1969, recorded in said Bureau of Conveyances in Liber 6474, Page 469, granting a perpetual 15 foot wide right-of-way for roadway purposes.

Above Grant amended by instrument dated October 21, 1997, recorded in said Bureau of Conveyances as Document No. 97-143960, regarding amends said above Grant to substitute new right-of-way over said Easement "A-2".

2. Designation of Easement "A-2" of the Kuau Beach Subdivision No. 4 (area 10,327 square feet or 0.237 acre) for access in favor of Tax Map Key(s) (2) 2-6-009-003, 004, 017 and 018, and Lots 1 and 2, as shown on survey prepared by Ken T. Nomura, Licensed Professional Land Surveyor with A & B Properties, Inc., dated November 6, 1996, revised May 15, 1997, and more particularly described as follows:

Beginning at a 1/2 inch pipe at the northwesterly corner of this easement, said pipe being also the northerly corner of Lot 1 of the Kuau Beach Subdivision No. 3, the coordinates of said point of beginning referred to Government Survey Triangulation

Station "PUUNENE 2" being 8,354.17 feet north and 6,720.95 feet east and running by azimuths measured clockwise from true South;

1. 242° 04' 97.91 feet along the remainder of Section 3 of the Hamakuapoko Hui Lands (being along Tax Map Key: (2) 2-6-09:18) to a 1/2 inch pipe;
2. 260° 08' 134.55 feet along the remainder of Section 3 of the Hamakuapoko Hui Lands (being along Tax Map Key: (2) 2-6-09:19) and along Lot 4 of the Kuau Beach Subdivision No. 3 to a 1/2 inch pipe;
3. 328° 47' 44.78 feet along Lot 3 of the Kuau Beach Subdivision No. 3 to a point;
4. 85° 30' 18.26 feet over and across Lot 2 of the Kuau Beach Subdivision No. 3 to a point;
5. 75° 36' 125.26 feet over and across same to a point;
6. 68° 41' 85.57 feet over and across same to a point;
7. 145° 09' 40.29 feet along Lot 1 of the Kuau Beach Subdivision No. 3 to the point of beginning and containing an area of 10,327 square feet or 0.237 acre, more or less.

3. Restriction of Vehicle Access Rights as shown on map attached to Deed recorded in said Bureau of Conveyances as Document No. 97-180576.

4. Covenants, conditions and reservations, contained in Deed dated December 16, 1997 recorded in said Bureau of Conveyances as Document No. 97-180576.

5. Covenants, conditions and reservations, contained in Mortgage dated --- (acknowledged December 22, 1997) recorded in said Bureau of Conveyances as Document No. 97-180577 for the amount of \$300,000.00.

ORDINANCE NO. _____

BILL NO. _____ (2012)

A BILL FOR AN ORDINANCE TO CHANGE ZONING FROM
AGRICULTURAL DISTRICT TO RU-0.5 RURAL DISTRICT FOR
PROPERTY SITUATED AT 101 A, B, AND C KUAU PLACE, PAIA, MAUI,
HAWAII, TAX MAP KEY NUMBER (2) 2-6-009:024

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapters 19.29 and 19.510, Maui County Code, a change in zoning from Agricultural District to RU-0.5 Rural District is hereby granted for that certain parcel of land situated at Paia, Maui, Hawaii, and identified for real property tax purposes by Tax Map Key Number (2) 2-6-009:024, comprising approximately 2.140 acres, and more particularly described in Exhibit "A", attached hereto and made a part hereof, and as shown in Land Zoning Map No. L-_____, which is on file at the Office of the County Clerk of the County of Maui, and by reference made a part hereof.

SECTION 2. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:

JAMES A. GIROUX
Deputy Corporation Counsel
County of Maui

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EXHIBIT " 2 "

EXHIBIT "A"

All of that certain parcel of land, being LOT 2, a portion of Lot A-2 of the Kuau Beach Subdivision No. 1, being also a portion of Section 3 of the Hamakuapoko Hui Lands and a portion of the land deeded by the Board of Education to the Trustees of the Oahu College dated January 30, 1860, recorded in Liber 12 at Page 403, situated at Paia, Hamakuapoko, Makawao, Island and County of Maui, State of Hawaii, described as follows:

Beginning at a 1/2-inch pipe at the easterly corner of this lot, on the northwesterly side of Hana Highway, said pipe being also the southerly corner of Lot 3 of the Kuau Beach Subdivision No. 3, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUUNENE 2" being 8,071.86 feet north and 7,152.86 feet east and running by azimuths measured clockwise from true South:

1. 58° 47' 9.82 feet along the
northwesterly side of
Hana Highway to a
1/2-inch pipe;
2. Thence along same on a curve to the left with a radius of
2,893.00 feet, the chord
azimuth and distance
being:

 56° 58' 183.43 feet to a 1/2-inch pipe;
3. 145° 09' 472.04 feet along Lot 1 of the
Kuau Beach Subdivision
No. 3 to a 1/2-inch pipe;
4. 242° 04' 97.91 feet along the remainder
of Section 3 of the
hamakuapoko Hui Lands
(being along Tax Map Key:
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1/2-inch pipe;
5. 260° 08' 134.55 feet along the remainder
of Section 3 of the
Hamakuapoko Hui Lands
(being along Tax Map Key:
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Lot 4 of the Kuau Beach
Subdivision No. 3 to a
1/2-inch pipe;

6.	328° 47'	410.69	feet along Lot 3 of the Kuau Beach Subdivision No. 3 to the point of beginning and containing an area of 2.140 acres, more or less.
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Together with an easement for access and drainage purposes over Easement A-3 described as follows:

Beginning at a point at the southeasterly corner of this easement, on the northwesterly side of Hana Highway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUUNENE 2" being 8,196.72 feet north and 7,358.87 feet east and running by azimuths measured clockwise from true South:

1. Over and across Lot 3 of the Kuau Beach Subdivision No. 3 on a curve to the left with a radius of 30.00 feet, the chord azimuth and distance being:

193° 47'	42.43	feet to a point;
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2. 148° 47' 197.10 feet over and across same to a point;
3. Thence over and across same on a curve to the left with a radius of 4.00 feet, the chord azimuth and distance being:

117° 08' 30"	4.20	feet to a point;
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4. 85° 30' 300.80 feet over and across same to a point;
5. 148° 47' 44.78 feet along Lot 2 of the Kuau Beach Subdivision No. 3 to a point;
6. 265° 30' 320.93 feet along Lot 4 of the Kuau Beach Subdivision No. 3 to a 1/2 inch pipe;

7. Thence along same on a curve to the right with a radius of 44.00 feet, the chord azimuth and distance being:

297°	08' 30"	46.17	feet to a 1/2 inch pipe;
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8. 328° 47' 197.10 feet along same to a 1/2 inch pipe;
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283°	47'	42.43	feet to a 1/2 inch pipe;
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10. 58° 47' 100.00 feet along the northwesterly side of Hana Highway to the point of beginning and containing an area of 22,964 square feet or 0.527 acre, more or less.

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SUBJECT, HOWEVER, to the following:

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Above Grant amended by instrument dated October 21, 1997, recorded in said Bureau of Conveyances as Document No. 97-143960, regarding amends said above Grant to substitute new right-of-way over said Easement "A-2".

2. Designation of Easement "A-2" of the Kuau Beach Subdivision No. 4 (area 10,827 square feet or 0.237 acre) for access in favor of Tax Map Key(s) (2) 2-6-009-003, 004, 017 and 018, and Lots 1 and 2, as shown on survey prepared by Ken T. Nomura, Licensed Professional Land Surveyor with A & B Properties, Inc., dated November 6, 1996, revised May 15, 1997, and more particularly described as follows:

Beginning at a 1/2 inch pipe at the northwesterly corner of this easement, said pipe being also the northerly corner of Lot 1 of the Kuau Beach Subdivision No. 3, the coordinates of said point of beginning referred to Government Survey Triangulation

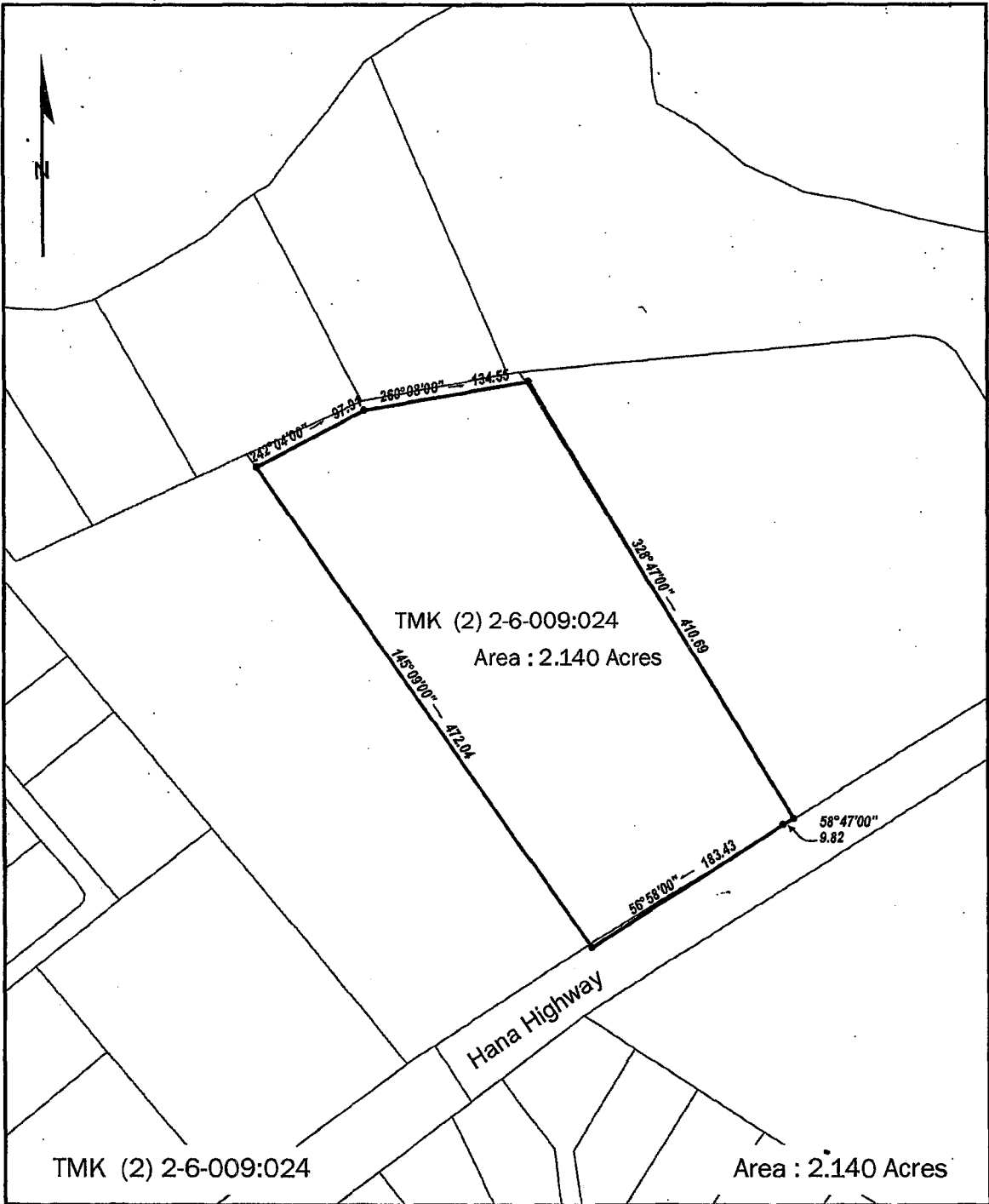
Station "PUUNENE 2" being 8,354.17 feet north and 6,720.95 feet east and running by azimuths measured clockwise from true South;

- | | | | | |
|----|------|-----|--------|---|
| 1. | 242° | 04' | 97.91 | feet along the remainder of Section 3 of the Hamakuapoko Hui Lands (being along Tax Map Key: (2) 2-6-09:18) to a 1/2 inch pipe; |
| 2. | 260° | 08' | 134.55 | feet along the remainder of Section 3 of the Hamakuapoko Hui Lands (being along Tax Map Key: (2) 2-6-09:19) and along Lot 4 of the Kuau Beach Subdivision No. 3 to a 1/2 inch pipe; |
| 3. | 328° | 47' | 44.78 | feet along Lot 3 of the Kuau Beach Subdivision No. 3 to a point; |
| 4. | 85° | 30' | 18.26 | feet over and across Lot 2 of the Kuau Beach Subdivision No. 3 to a point; |
| 5. | 75° | 36' | 125.26 | feet over and across same to a point; |
| 6. | 68° | 41' | 85.57 | feet over and across same to a point; |
| 7. | 145° | 09' | 40.29 | feet along Lot 1 of the Kuau Beach Subdivision No. 3 to the point of beginning and containing an area of 10,327 square feet or 0.237 acre, more or less. |

3. Restriction of Vehicle Access Rights as shown on map attached to Deed recorded in said Bureau of Conveyances as Document No. 97-180576.

4. Covenants, conditions and reservations, contained in Deed dated December 16, 1997 recorded in said Bureau of Conveyances as Document No. 97-180576.

5. Covenants, conditions and reservations, contained in Mortgage dated --- (acknowledged December 22, 1997) recorded in said Bureau of Conveyances as Document No. 97-180577 for the amount of \$300,000.00.



COMMUNITY PLAN MAP No. CP-718
COMMUNITY PLAN AMENDMENT - PA`IA, MAUI, HAWAII
FROM AGRICULTURAL (AG) DISTRICT
TO RURAL (RU-0.5) DISTRICT

APPROVAL:

County Clerk

PUBLIC HEARING DATE:

ADOPTED BY COUNTY COUNCIL:

ADOPTED BY MAYOR:

ORDINANCE NO:

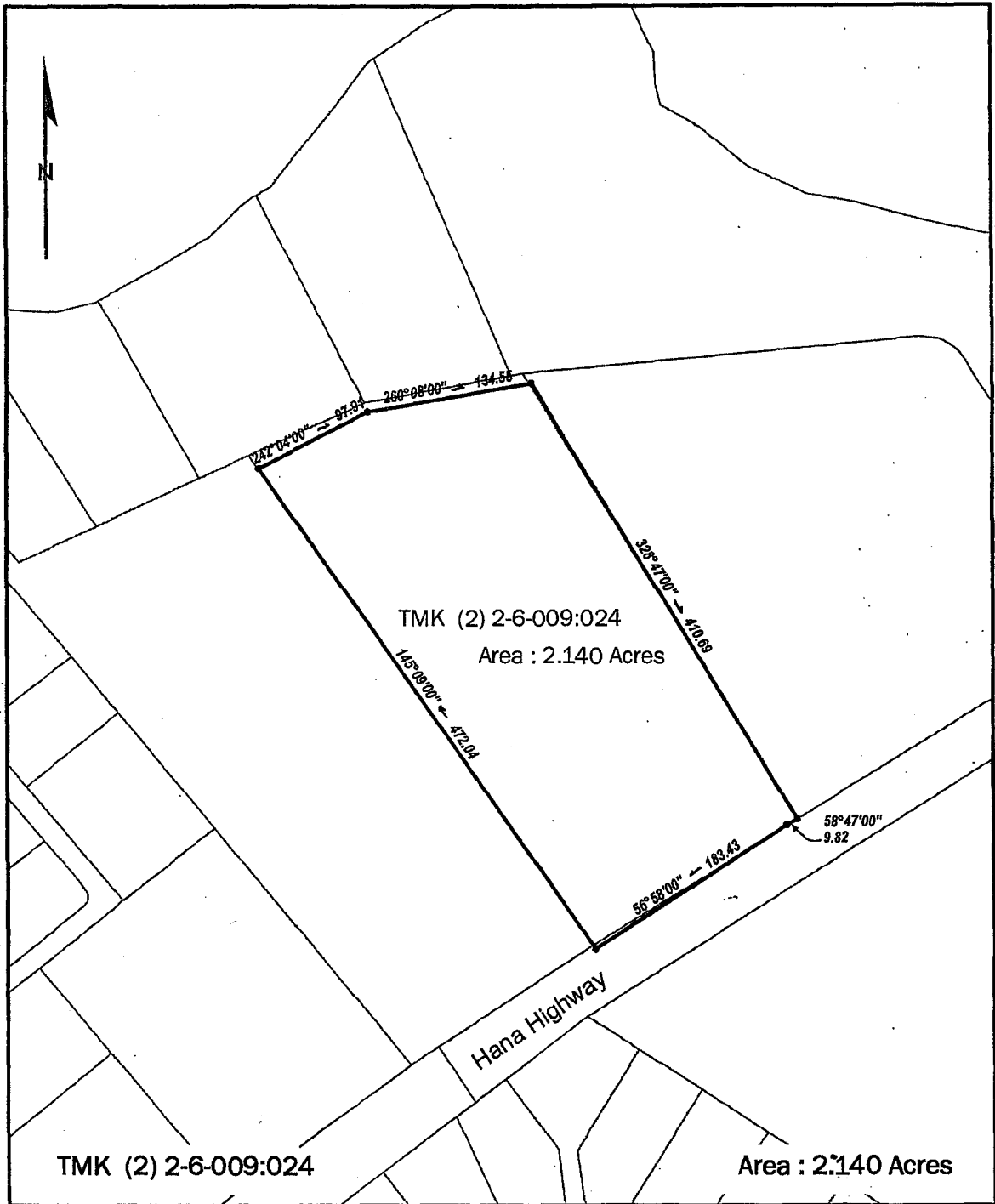
APPROVAL:

Planning Director

DATE:

SCALE: 1 inch = 100 feet

OFFICE OF THE COUNTY CLERK
 200 SO. HIGH ST., WAILUKU, MAUI, HAWAII, 96793 **CP -718**



TMK (2) 2-6-009:024
Area : 2.140 Acres

TMK (2) 2-6-009:024

Area : 2.140 Acres

LAND ZONING MAP No. L-1525
CHANGE IN ZONING - PA`IA, MAUI, HAWAII
FROM AGRICULTURAL (AG) DISTRICT
TO RURAL (R) DISTRICT

APPROVAL:

 County Clerk

PUBLIC HEARING DATE:
 ADOPTED BY COUNTY COUNCIL:

APPROVAL:

 Planning Director

ADOPTED BY MAYOR:
 ORDINANCE NO:
 DATE: _____ SCALE: 1 inch = 100 feet