

NOTICE OF PUBLICATION AND NOTICE OF PUBLIC HEARING

Notice is hereby given that the Council of the County of Kaua'i will hold a public hearing on Wednesday, October 20, 2021, at 8:30 a.m., or soon thereafter, at the Council Chambers, 4396 Rice Street, Suite 201, Historic County Building, Līhu'e, on the following:

Bill No. 2836

A BILL FOR AN ORDINANCE TO AMEND CHAPTER 10, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE LĪHU'E TOWN CORE URBAN DESIGN DISTRICT (*County of Kaua'i Planning Department, Applicant*) (ZA-2021-4)

This Bill proposes to amend Chapter 10, Article 5A, Kaua'i County Code 1987, as amended, by amending the zoning map for Special Planning Area "D" (SPA-D) also known as the "Rice Street Neighborhood Design District," to include the Līhu'e Mill site located at Tax Map Key Nos. (4) 3-8-004:007 and (4) 3-8-005:009.

All interested persons who wish to present their comments may do so at the public hearing. Written testimony prior to the hearing would be appreciated. Written testimony can be submitted to the Office of the County Clerk, Council Services Division by mail, facsimile, or via E-mail to counciltestimony@kauai.gov. Copies of the Bill are available at the Office of the County Clerk, Council Services Division.

(The Council Committee or Council may amend this Bill at their subsequent meetings. Meeting notices are posted at least six (6) days in advance at the County Clerk's Office and the public may also testify at any of these meetings.)

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that the foregoing Bill No. 2836 was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on September 15, 2021, by the following vote:

AYES: Carvalho, Chock, Cowden, DeCosta, Evslin, Kualī'i, Kaneshiro	TOTAL – 7,
NOES: None	TOTAL – 0,
EXCUSED & NOT VOTING: None	TOTAL – 0,
RECUSED & NOT VOTING: None	TOTAL – 0.

Līhu'e, Hawai'i
September 16, 2021

/s/ Jade K. Fountain-Tanigawa
County Clerk, County of Kaua'i

NOTE: IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF THE COUNTY CLERK, COUNCIL SERVICES DIVISION AT (808) 241-4188 OR COKCOUNCIL@KAUAI.GOV AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST.

UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.

(One publication – The Garden Island – September 27, 2021)

**A BILL FOR AN ORDINANCE TO AMEND CHAPTER 10,
KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO THE LĪHU'E
TOWN CORE URBAN DESIGN DISTRICT**

(County of Kaua'i Planning Department, Applicant) (ZA-2021-4)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII:

SECTION 1. Findings and Purpose. The County of Kaua'i adopted the first General Plan in 1971 (updated in 1984, 2000 and 2018). Subsequently, the County of Kaua'i adopted the Comprehensive Zoning Ordinance ("CZO") in 1972. Since its adoption, the County of Kaua'i has approved several amendments to specific provisions of the CZO.

The purpose of this Ordinance is to amend the Līhu'e Town Core Urban Design District of the Kaua'i County Code 1987, as amended, thereby rezoning what is currently the Līhu'e Sugar Mill site from its existing use, "Industrial," into the Special Use District – Līhu'e Town Core, and to incorporate the Līhu'e Sugar Mill site into the Līhu'e Town Core Urban Design District, Special Planning Area "D" ("SPA-D"), also known as the "Rice Street Neighborhood Design District."

The Subject Property, hereinafter referred to as "Līhu'e Mill site" is located near the center of downtown, Līhu'e, Kaua'i, Hawai'i, and is shown on the Location Map attached hereto as "Exhibit A."

The Council finds that the property referred to herein as the Līhu'e Mill site is all that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Grant Number 188, Apana 1 to Wm. L. Lee, Royal Patent Number 4478, Land Commission Award Number 7713, Apana 2, Part 1 to V. Kamamalu) situate, lying and being at Kalapaki, Nāwiliwili, Līhu'e, Island and County of Kaua'i, State of Hawai'i, being Lot 3 and containing an area of 11.108 acres, more or less and all of the certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 4478, Land Commission award 7713, Apana 2, Part 2, to V. Kamamalu and Royal Patent Grant Number 188:1 to W. L. Lee) situate, lying and being at Nāwiliwili, Līhu'e (Puna), Island and County of Kaua'i, State of Hawai'i, being Lot 2 and containing an area of 2.713 acres, more or less, being the portion of Līhu'e Plantation Company, Limited Mill site; and as delineated by the metes and bounds descriptions in "Exhibit B."

The Council further finds that the Līhu'e Mill site contains approximately 13.793 total acres and is located on two (2) separate TMK parcels, identified as:

PARCEL FIRST (LOT 3) is (are) covered by Tax Key: (4) 3-8-004:007.
PARCEL SECOND (LOT 2) is (are) covered by Tax Key: (4) 3-8-005:009.

The Council finds that the lack of affordable housing is a serious issue facing Kaua'i residents.

The Council finds that the Līhu'e Town Core Urban Design Plan ("LTCUDP") was adopted by the County of Kaua'i in March 2010. According to the LTCUDP, "Līhu'e is Kaua'i's administrative, business, and transportation center".

The Council finds that the Līhu'e Mill site is located in the corridor between the Kukui Grove Mall and the Rice Street District. If the Subject Property is incorporated into the Līhu'e Town Core, Special Planning Area "D" (SPA-D), potential residents would have walking/cycling access to essential services in both downtown Līhu'e and the Kukui Grove areas.

The Council also finds that the Līhu'e Mill site is located within walking/cycling distance to the SPA-D, also known as the "Rice Street Neighborhood Design District" as defined at Sec. 10-5A.7 of the Līhu'e Town Core Urban Design District.

The Council finds that this Zoning Amendment is necessary in order to allow for the development of the Subject Property to its fullest potential in the Līhu'e Town Core (R-40), pursuant to Sec. 10-5A.7(A)(1-20) SPA-D.

According to the Kaua'i County General Plan (2018), Kaua'i is far short of the housing needed to keep up with population growth and to make housing affordable for working families. There is a serious shortage of workforce housing on Kaua'i. According to the Kaua'i General Plan, approximately 9,000 housing units are needed by 2035. See: Kaua'i General Plan, p. 39.

The Council finds that incorporating the Subject Property into the Līhu'e Town Core, fulfills one of the goals of the Kaua'i General Plan, namely potential creation of infill housing. Infill housing is described in the Kaua'i General Plan as "housing located within existing communities that can expand our housing inventory without consuming precious open space."

The Council finds that amending the zoning of the Līhu'e Mill site to incorporate it into the Līhu'e Town Core is also consistent with the 2015 Līhu'e Community Plan.

The Council finds that the location of the Līhu'e Mill site is ideal for infill or workforce housing. The location between Rice Street and Kukui Grove Center, if developed, will lessen the growth of residential sprawl while providing residents with walking access to businesses, governmental services, and potential jobs. The Kaua'i General Plan encourages infill housing as an alternative to sprawl.

The Council finds that, as stated in the General Plan, "the alternative to sprawl focuses new development in existing town centers in order to leverage existing physical and social infrastructure while preserving vital open spaces. The rezoning of the Līhu'e Mill site into the Līhu'e Town Core, SPA-D would serve to foster town centers that support infill housing and mixed use environments. Such infill areas would include the major employment centers of Līhu'e and Koloa."

The Council finds that including the subject Property in the “Līhu‘e Town Core” will help meet the goals for infill housing contained in the Kaua‘i General Plan.

The Council finds that according to the General Plan:

INFILL HOUSING:

Infill development, or housing located within existing communities, can expand our housing inventory without consuming precious open space. It may be less expensive than “greenfield” development because it utilizes existing infrastructure and services. Infill housing has the potential to play an important role in meeting future housing needs, but only if the zoning, infrastructure, and built environment can support higher density communities. It should also be appropriately scaled to the character of individual towns.

The Council also finds that, consistent with the General Plan, rezoning the Līhu‘e Mill site into the Līhu‘e Town Core, SPA-D, with the potential for “multiple-family dwellings not to exceed R-40 density” will result in “adapting planning and zoning requirements in a manner that will stimulate private investment in new or renovated structures.”

The Council finds that the current landowner has consented to this zoning amendment.

The purpose of this bill is to amend the Kaua‘i County Code, Chapter 10, Article 5A, to designate the Līhu‘e Mill site within the Līhu‘e Town Core, SPA-D, also known as the “Rice Street Neighborhood Design District.”

SECTION 2. Chapter 10, Article 5A of the Kaua‘i County Code 1987, as amended, is hereby amended by amending the zoning map for Special Planning Area (SPA) “D” also known as the “Rice Street Neighborhood,” to include the Līhu‘e Mill site (Tax Map Key (4) 3-8-004:007 and (4) 3-8-005:009) as reflected in “Exhibit A” and incorporating herein the metes and bounds description identified in “Exhibit B.”

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

SECTION 4. Ordinance material to be repealed is bracketed. New Ordinance material is underscored. When revising, compiling, or printing this Ordinance for inclusion in the Kaua‘i County Code 1987, as amended, the brackets, bracketed material, and underscoring shall not be included.

SECTION 5. This Ordinance shall take effect upon approval. The requirements of this Ordinance shall not affect any application which has been approved by the Planning Commission prior to the effective date of this Ordinance, unless there is a subsequent approval required prior to a building permit, in which case, that subsequent application shall be subject to the relevant requirements of this Ordinance, excluding subdivisions which have received tentative approval prior to the approval date of this Ordinance.

Introduced by: /s/ MASON K. CHOCK
(By Request)

DATE OF INTRODUCTION:

September 15, 2021

Līhu'e, Kaua'i, Hawai'i

V:\BILLS\2020-2022 TERM\Bill No 2836 - Zoning Amendment Lihue Sugar Mill site - (9-15-21)
MC_CNT_ks.docx

Map Showing Proposed Amendment to Zoning Map ZM-LI-400 Special Planning Area (SPA) "D" Also Known As the "Rice Street Neighborhood"

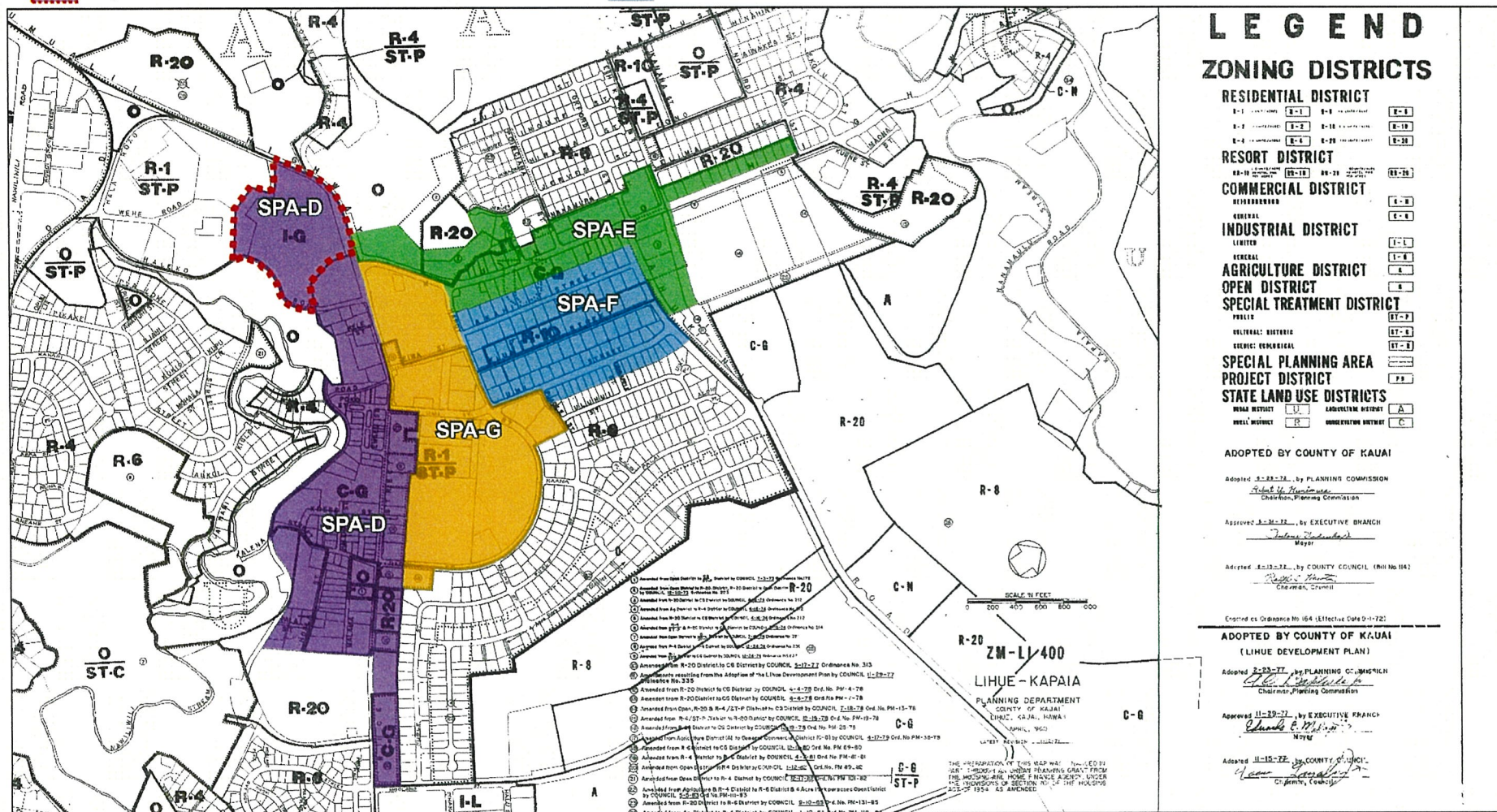
SPA-D: Rice Street Neighborhood

 Proposed Amendment to SPA-D (Lihue Mill Area)

SPA-E: Kuhio Highway Neighborhood

SPA-F: Akahi/Elua/Umi Streets Neighborhoods

SPA-G: Civic Center Neighborhood



-PARCEL FIRST:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Grant Number 188, Apana 1 to Wm. L. Lee, Royal Patent Number 4478, Land Commission Award Number 7713, Apana 2, Part 2 to V. Kamamalu, and Royal Patent Number 4480, Land Commission Award Number 7713, Apana 2, Part 1 to V. Kamamalu) situate, lying and being at Kalapaki, Nawiliwili, Lihue, Island and County of Kauai, State of Hawaii, being LOT 3 and thus bounded and described as per survey dated July 31, 1986:

Beginning at a 1/2" pipe at the Northeast corner of this parcel of land, on the South line of Kaumualii Highway (F.A.P. No. W.P.G.S. 24-A), the coordinates of said point of beginning referred to Government Survey Triangulation Station "KILOHANA" being 6,838.12 feet South and 20,636.29 feet East and thence running by azimuths measured clockwise from true South:

- | | | | |
|----|--------------|--------|--|
| 1. | 30° 00' | 175.85 | feet along Lot A, being portions of R.P. 4480, L.C.Aw. 7713, Ap. 2, Part 1 to V. Kamamalu, R.P. 4478, L.C.Aw. 7713, Ap. 2, Part 2 to V. Kamamalu and Grant 188: 1 to W.L. Lee; |
| 2. | 299° 58' 20" | 107.21 | feet along Lot A, being portions of R.P. 4480, L.C.Aw. 7713, Ap. 2, Part 1 to V. Kamamalu, R.P. 4478, L.C.Aw. 7713, Ap. 2, Part 2 to V. Kamamalu and Grant 188: 1 to W.L. Lee; |
| 3. | 333° 58' 20" | 110.00 | feet along Lot A, being portions of R.P. 4480, L.C.Aw. 7713, Ap. 2, Part 1 to V. Kamamalu, R.P. 4478, L.C.Aw. 7713, Ap. 2, Part 2 to V. Kamamalu and Grant 188: 1 to W.L. Lee; |
| 4. | 18° 58' 20" | 200.00 | feet along Lot A, being portions of R.P. 4480, L.C.Aw. 7713, Ap. 2, Part 1 to V. Kamamalu, R.P. 4478, L.C.Aw. 7713, Ap. 2, Part 2 to V. Kamamalu and Grant 188: 1 to W.L. Lee; |

Exhibit B

5. 288° 58' 20" 53.00 feet along Lot A, being portions of R.P. 4480, L.C.Aw. 7713, Ap. 2, Part 1 to V. Kamamalu, R.P. 4478, L.C.Aw. 7713, Ap. 2, Part 2 to V. Kamamalu and Grant 188: 1 to W.L. Lee;
6. 18° 58' 20" 60.00 feet along Lot A, being portions of R.P. 4480, L.C.Aw. 7713, Ap. 2, Part 1 to V. Kamamalu, R.P. 4478, L.C.Aw. 7713, Ap. 2, Part 2 to V. Kamamalu and Grant 188: 1 to W.L. Lee;
7. Thence along the North side of Haleko Road, on a curve to the right with a radius of 277.56 feet, the chord azimuth and distance being:
79° 35' 40" 178.19 feet;
8. 98° 19' 90.70 feet along the North side of Haleko Road;
9. Thence along the North side of Haleko Road, on a curve to the left with a radius of 428.00 feet, the chord azimuth and distance being:
86° 06' 00" 181.14 feet;
10. 73° 53' 52.10 feet along the North side of Haleko Road;
11. 139° 37' 264.27 feet along Lot 2, being portions of Grant 188: 1 to W.L. Lee and R.P. 4478, L.C.Aw. 7713, Ap. 2, Part 2 to V. Kamamalu;
12. 60° 48' 19.50 feet along Lot 2, being portions of Grant 188: 1 to W.L. Lee and R.P. 4478, L.C.Aw. 7713, Ap. 2, Part 2 to V. Kamamalu;

Exhibit B

13. 150° 58' 145.30 feet along Lot 2, being portions of Grant 188: 1 to W.L. Lee and R.P. 4478, L.C.Aw. 7713, Ap. 2, Part 2 to V. Kamamalu;
14. 221° 59' 33.60 feet along Lot 2, being portions of Grant 188: 1 to W.L. Lee and R.P. 4478, L.C.Aw. 7713, Ap. 2, Part 2 to V. Kamamalu;
15. 191° 52' 141.00 feet along Lot 2, being portions of Grant 188: 1 to W.L. Lee and R.P. 4478, L.C.Aw. 7713, Ap. 2, Part 2 to V. Kamamalu;
16. 127° 22' 286.40 feet along Lot 2, being portions of Grant 188: 1 to W.L. Lee and R.P. 4478, L.C.Aw. 7713, Ap. 2, Part 2 to V. Kamamalu;
17. 238° 38' 99.00 feet along the South side of Kaumualii Highway (F.A.P. No. W.P.G.S. 24-A);
18. Thence along the South side of Kaumualii Highway (F.A.P. No. W.P.G.S. 24-A), on a curve to the right with a radius of 520.00 feet, the chord azimuth and distance being:
 252° 19' 25" 246.14 feet;
19. 288° 38' 530.91 feet along the South side of Kaumualii Highway (F.A.P. No. W.P.G.S. 24-A);
20. 198° 38' 30.00 feet along the South side of Kaumualii Highway (F.A.P. No. W.P.G.S. 24-A);
21. 288° 38' 84.59 feet along the South side of Kaumualii Highway (F.A.P. No. W.P.G.S. 24-A) to the point of beginning and containing an area of 11.108 acres, more or less.

Together with a non-exclusive easement over, under, upon, across and through Easement "D-5", as granted by GRANT OF DRAINAGE EASEMENT dated November 15, 2001, recorded as Document No. 2002-005028; and subject to the terms and provisions contained therein.

-PARCEL SECOND:-

All of that certain parcel of land (being portion(s) of the land(s) described in and covered by Royal Patent Number 4478, Land Commission Award Number 7713, Apana 2, Part 2, to V. Kamamalu and Royal Patent Grant Number 188:1 to W. L. Lee) situate, lying and being at Nawiliwili, Lihue (Puna), Island and County of Kauai, State of Hawaii, being LOT 2, same being portion of Lihue Plantation Company, Limited Mill Site, and thus bounded and described:

Beginning at the northeast corner of this lot, being also the northwest corner of Lot 3, on the south side of Kaumualii Highway (F.A.P. No. W.P.G.S. 24-A), the coordinates of said point of beginning referred to Government Survey Triangulation Station "KILOHANA" being 6,796.16 feet south and 19,724.42 feet east, and running by azimuths measured clockwise from true South:

- | | | | | |
|----|------|-----|--------|--|
| 1. | 307° | 22' | 286.40 | feet along remainder of R.P. 4478, L.C.Aw. 7713, Apana 2, Part 2 to V. Kamamalu; |
| 2. | 11° | 52' | 141.00 | feet along remainder of R.P. 4478, L.C.Aw. 7713, Apana 2, Part 2 to V. Kamamalu; |
| 3. | 41° | 59' | 33.60 | feet along remainder of R.P. 4478, L.C.Aw. 7713, Apana 2, Part 2 to V. Kamamalu; |
| 4. | 330° | 58' | 145.30 | feet along remainder of R.P. 4478, L.C.Aw. 7713, Apana 2, Part 2 to V. Kamamalu; |

Exhibit B

5.	240°	48'	19.50	feet along remainder of R.P. 4478, L.C.Aw. 7713, Apana 2, Part 2 to V. Kamamalu;
6.	319°	37'	264.27	feet along remainder of R.P. 4478, L.C.Aw. 7713, Apana 2, Part 2 to V. Kamamalu;
7.	73°	53'	22.90	feet along the proposed northerly side of Haleko Road; thence still along the proposed northerly side of Haleko Road, on a curve to the left with a radius of 200.00 feet, the chord azimuth and distance being:
8.	58°	45'	43"	104.35 feet;
9.	144°	21'	278.96	feet along remainder of R.P. 4478, L.C.Aw. 7713, Apana 2, Part 2 to V. Kamamalu;
10.	74°	36'	116.70	feet along remainder of R.P. 4478, L.C.Aw. 7713, Apana 2, Part 2 to V. Kamamalu;
11.	164°	26'	167.70	feet along remainder of R.P. 4478, L.C.Aw. 7713, Apana 2, Part 2 to V. Kamamalu;
12.	217°	31'	141.20	feet along remainder of R.P. 4478, L.C.Aw. 7713, Apana 2, Part 2 to V. Kamamalu;
13.	127°	22'	276.21	feet along remainder of R.P. 4478, L.C.Aw. 7713, Apana 2, Part 2 to V. Kamamalu;

14. 238° 38' 152.18 feet along the south side of
Kaumualii Highway (F.A.P. No.
W.P.G.S. 24-A) to the point of
beginning and containing an area
of 2.713 acres, more or less.

Together with those certain easements running over, across, under and along Lot 1-A, over (1) EASEMENT AU-2, 15 feet, for access and utility purposes; (2) EASEMENT AU-3, for access to oil tank and pipeline purposes; (3) EASEMENT E-1, 5 feet wide, for electrical purposes; (4) EASEMENT W-1, 15 feet wide, for water well purposes; and (5) EASEMENT W-2, 5 feet wide, for waterline purposes, as granted by instrument dated August 31, 1992, recorded as Document No. 92-145335, and subject to the terms and provisions contained therein; said easements being more particularly described therein.

Together with an easement for access, utility, drainage and other purposes over, under and across portions of the Grantor's Property (the "Easement Areas") necessary or convenient for continued operation and maintenance of the LPS Co Power Plant (Including without limitation operation and maintenance of the Waiahi Hydros), approximately as shown on the map attached as Exhibit "8" to the Purchase Agreement, which map is incorporated thereto by this reference, as granted by instrument dated July 6, 2001, recorded as Document No. 2001-103877; and subject to the terms and provisions contained therein.

-AS TO PARCELS FIRST AND SECOND:-

BEING THE PREMISES ACQUIRED BY LIMITED WARRANTY DEED

GRANTOR : PACIFIC FUNDS, LLC, a Washington limited liability
company

GRANTEE : LIHUE MS, LLC, a Hawaii limited liability company

DATED : August 1, 2007

RECORDED : Document No. 2007-143044

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2836, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on September 15, 2021, by the following vote:

FOR PASSAGE:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Līhu'e, Hawai'i
September 16, 2021



Jade K. Fountain-Tanigawa
County Clerk, County of Kaua'i