

ORDINANCE NO. **03 111**

AN ORDINANCE AMENDING ORDINANCE NO. 00 128 WHICH RECLASSIFIED LANDS FROM AGRICULTURAL (A-1a) TO NEIGHBORHOOD COMMERCIAL (CN-20) AT KEONEPOKO, PUNA, HAWAII, COVERED BY TAX MAP KEY 1-5-07:20.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII:

SECTION 1. Ordinance No. 00 128 is amended as follows:

“SECTION 1. Section 25-8-26, Article 8, Chapter 25 (Zoning Code) of the Hawaii County Code, is amended to change the district classification of property described hereinafter as follows:

The district classification of the following area situated at Keonepoko, Puna, Hawaii, shall be Neighborhood Commercial (CN-20):

Beginning at a point at the southeast corner of this parcel of land and on the northerly side of Kahakai Boulevard, the coordinates of said point of beginning referred to Government Survey Triangulation Station “olaa” being 34,554.85 feet South and 35,137.78 feet East and running by azimuths measured clockwise from true South:

- 1. 70° 34' 732.05 feet along the northerly side of Kahakai Boulevard to a point at the easterly side of the Keaau-Pahoa Road (F.A.S.P. No. S-0130 (8)) thence along the easterly side of the Keaau-Pahoa Road (F.A.S.P. No. S-0130 (8)) for the next three (3) courses along a curve to the left having a radius of 2,904.79 feet, the chord azimuths and distances being:
- 2. 152° 15' 29.2" 216.99 feet;
- 3. 149° 43' 03.4" 40.56 feet;
- 4. 149° 01' 01.7" 30.47 feet;

5.	148°	43'		49.91	feet along the easterly side of the Keaau-Pahoa Road (F.A.S.P. No. S0130 (8));
6.	238°	43'		10.00	feet along a jog in the Keaau-Pahoa Road Project No. RS-0130 (18); thence along the easterly side of the Keaau-Pahoa Road Project No. RS-0130 (18) along a curve to the right having a radius of 180.00 feet, the chord azimuth and distance being:
7.	177°	40'	35"	174.31	feet; thence along the Keaau-Pahoa Road Project No. RS-0130 (18) along a curve to the right having a radius of 39.87 feet, the chord azimuth and distance being:
8.	249°	48'	32"	54.56	feet; thence along the southerly side of the Keaau-Pahoa Road Project No. RS-0130 (18) along a curve to the left having a radius of 1,370.00 feet, the chord azimuth and distance being:
9.	289°	59'	27"	142.96	feet;
10.	287°	00'		353.36	feet along the southerly side of the Keaau-Pahoa Road Project No. RS-0130 (18);
11.	197°	00'		10.00	feet along a jog in the Keaau-Pahoa Road Project No. RS-0130 (18);
12.	287°	00'		298.51	feet along the southerly side of the Keaau-Pahoa Road Project No. RS-0130 (18); thence along the southerly side of the Keaau-Pahoa Road Project No. RS-0130 (18) along a curve to the right having a radius of 1,940.00 feet, the chord azimuth and distance being:
13.	287°	31'	43.5"	35.81	feet;

14. 328° 50' 11.43 feet along a jog in the Keaau-Pahoa Road Project No. RS-0130 (18) to the point of beginning and containing an area of 4.901 Acres.

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

SECTION 2. This change in district classification is conditioned upon the following:

- (A) the applicant, its successors or assigns shall comply with all stated conditions of approval;
- (B) construction of any development on the subject property shall be completed within five (5) years from the effective date of this amendment. In the event substantial construction has occurred, but not completed within the five-year period, the Planning Director may grant an extension of not more than one year. Prior to commencing construction, Final Plan Approval shall be secured from the Planning Director in accordance with Chapter 25-2-72, 25-2-73, and 25-4-7 of the Zoning Code. Plans shall identify the proposed structures, landscaping, fire protection measures, paved driveway and parking stalls associated with the proposed uses. Landscaping shall be indicated on the plans and be provided for the purpose of mitigating any adverse noise or visual impacts to adjacent properties;
- (C) curbs, gutters, sidewalk and pavement improvements shall be provided within the Kahakai Boulevard extension right-of-way fronting the property meeting with the approval of the Department of Public Works prior to receipt of a certificate of occupancy for any portion of the development other than the proposed service station and convenience center as described in the Traffic Assessment dated October 21, 2002. Further, a

25-foot radius shall be provided at the Kahakai Boulevard-Pahoa Road intersection. In order to construct the commercial standard road, utilities shall be relocated, if necessary;

- (D) access to the property shall meet with the approval of the Department of Public Works. Direct access to the property shall be limited only to the Kahakai Boulevard extension. Improvements at the intersection of Kahakai Boulevard and Pahoa Road, which shall include the provision of left- and right-turn lanes on Kahakai Boulevard extension, and a left-turn lane on Pahoa Road, shall be installed as required by the [Department of Public Works] Department of Transportation prior to receipt of a certificate of occupancy for any portions of the development other than the proposed service station and convenience center as described in the Traffic Assessment dated October 21, 2002;
- (E) improvements, if any, to the Pahoa By-Pass Road, which may include extending the left-turn storage lane leading to the connector road, shall be installed as required by the State Department of Transportation-Highways Division, prior to receipt of a certificate of occupancy for any portion of the development;
- (F) a drainage system shall be installed meeting with the approval of the Department of Public Works;
- (G) should any unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, pavings or walks be encountered, work in the immediate area shall cease and the Planning Department shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the Planning

Department when it finds that sufficient mitigative measures have been taken;

- (H) all other laws, rules, regulations and requirements of State and County agencies shall be complied with;
- (I) should the Council adopt a Unified Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein may, at the developer's election, be satisfied by performance in accordance with the requirements of the Unified Impact Fees Ordinance;
- (J) an annual progress report shall be submitted to the Planning Director prior to the anniversary date of the effective date of this change of zone. 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 and the Planning Director acknowledges that further reports are not required; and,
- (K) [an 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 be 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); and
- 5)] 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. Further, should any of the conditions not be met or substantially complied with in a timely fashion, the Director shall initiate rezoning of the area to its original or more appropriate designation."

SECTION 2. Material to be deleted is bracketed. New material is underscored.

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:

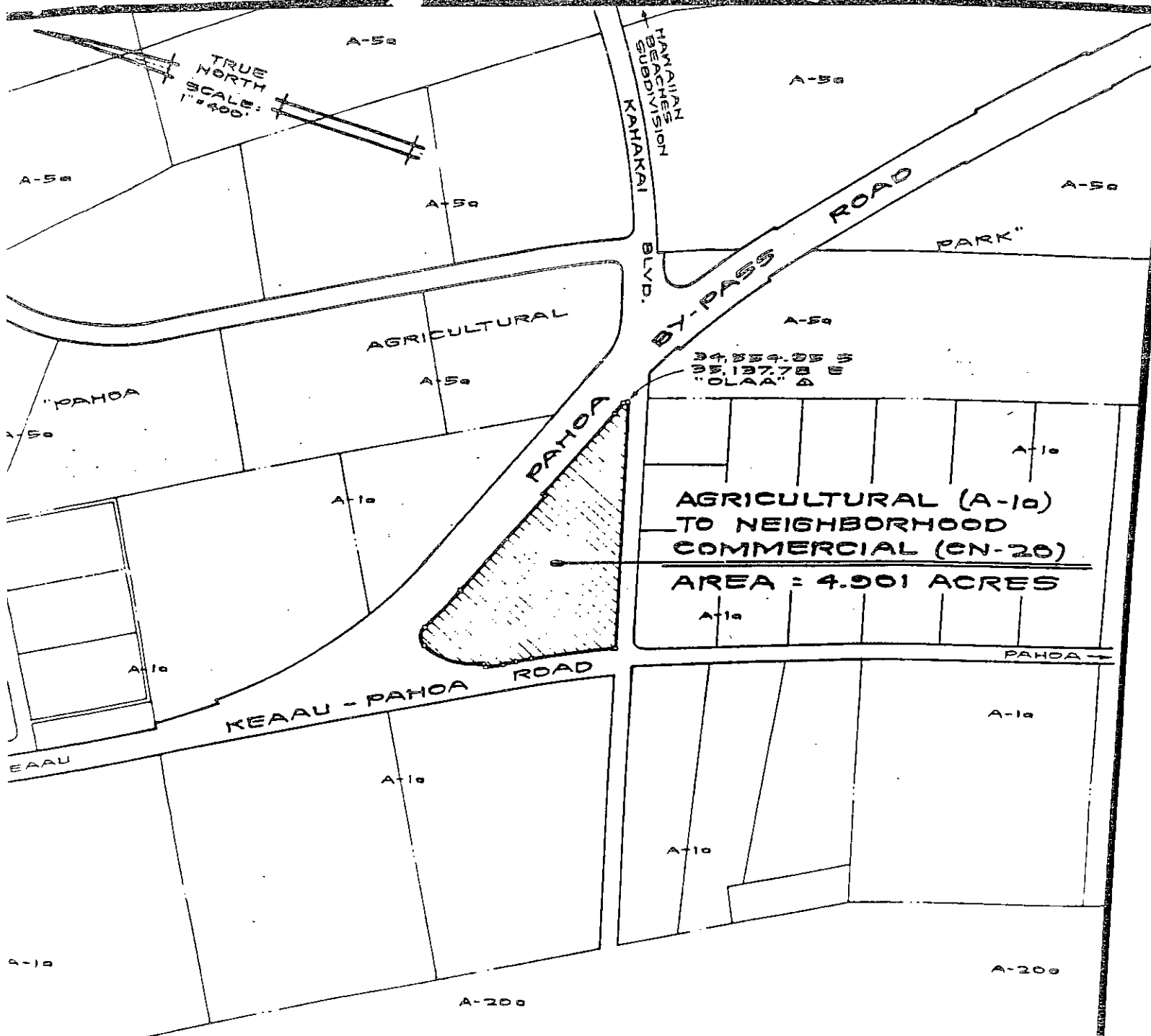


 COUNCIL MEMBER, COUNTY OF HAWAI'I

_____Hilo_____, Hawai'i

Date of Introduction: June 18, 2003
 Date of 1st Reading: June 18, 2003
 Date of 2nd Reading: July 2, 2003
 Effective Date: July 9, 2003

REFERENCE: Comm: 251



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-107 (PAHOA ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-1a) TO NEIGHBORHOOD COMMERCIAL (CN-20) AT KEONEPOKO, PUNA, HAWAII.

OFFICE OF THE COUNTY CLERK
 County of Hawaii
 Hilo, Hawaii

RECEIVED
 Time 2:07pm By gg
 Date 07/09/03
 County Council

Introduced By: Bobby Jean Leithead-Todd
 Date Introduced: June 18, 2003
 First Reading: June 18, 2003
 Published: N/A

REMARKS: _____

Second Reading: July 2, 2003
 To Mayor: July 8, 2003
 Returned: July 9, 2003
 Effective: July 9, 2003
 Published: July 20, 2003

REMARKS: _____

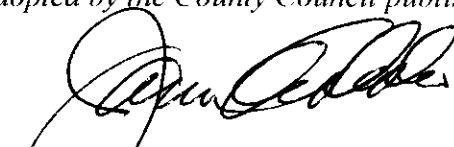
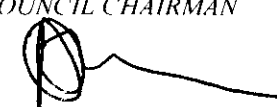
ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki	X			
Chung			X	
Elarionoff	X			
Holschuh	X			
Jacobson			X	
Leithead-Todd	X			
Reynolds	X			
Safarik	X			
Tyler	X			
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Arakaki			X	
Chung			X	
Elarionoff	X			
Holschuh			X	
Jacobson		X		
Leithead-Todd	X			
Reynolds	X			
Safarik	X			
Tyler	X			
	5	1	3	

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

APPROVED AS TO
 FORM AND LEGALITY:

Patricia K. O'Keefe
 DEPUTY CORPORATION COUNSEL
 COUNTY OF HAWAII
 Date 7/8/03


 COUNCIL CHAIRMAN

 COUNTY CLERK

Bill No.: 112
 Reference: C-251/PC-43
 Ord No.: 03 111

Approved/Disapproved this 9th day
 of July, 2003
Harry Kim
 MAYOR, COUNTY OF HAWAII