

COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. 10 38 BILL NO. 283  
(DRAFT 2)

AN ORDINANCE AMENDING ORDINANCE NO. 03 111, WHICH AMENDED ORDINANCE NO. 00 128, WHICH AMENDED ORDINANCE NO. 91-116, WHICH RECLASSIFIED LANDS FROM AGRICULTURAL – 1 ACRE (A-1a) TO NEIGHBORHOOD COMMERCIAL – 20,000 SQUARE FEET (CN-20) AT KEONEPOKO, PUNA, HAWAI'I, COVERED BY TAX MAP KEY 1-5-007:020.

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

**SECTION 1.** Ordinance No. 03 111 is amended as follows:

“SECTION 1. Section 25-8-26, 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 Keonepoko, Puna, Hawai'i, shall be Neighborhood Commercial – 20,000 square feet (CN-20):

SECTION 2. [~~This change in district classification is conditioned upon the following:~~]  
In accordance with Section 25-2-44, Hawai'i County Code 1983 (2005 Edition) 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 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 Pahoia Road, shall be installed as required by the 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 Pahoia 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]~~ by November 30, 2010. The applicant shall construct improvements required by the Department of Transportation to reconnect Kahakai Boulevard with Highway 130 to provide right-turn in and right-turn out movements, including but not limited to, acceleration and deceleration lanes and a paved striped island to prevent left-turns;
- (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) 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 and stricken. 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.

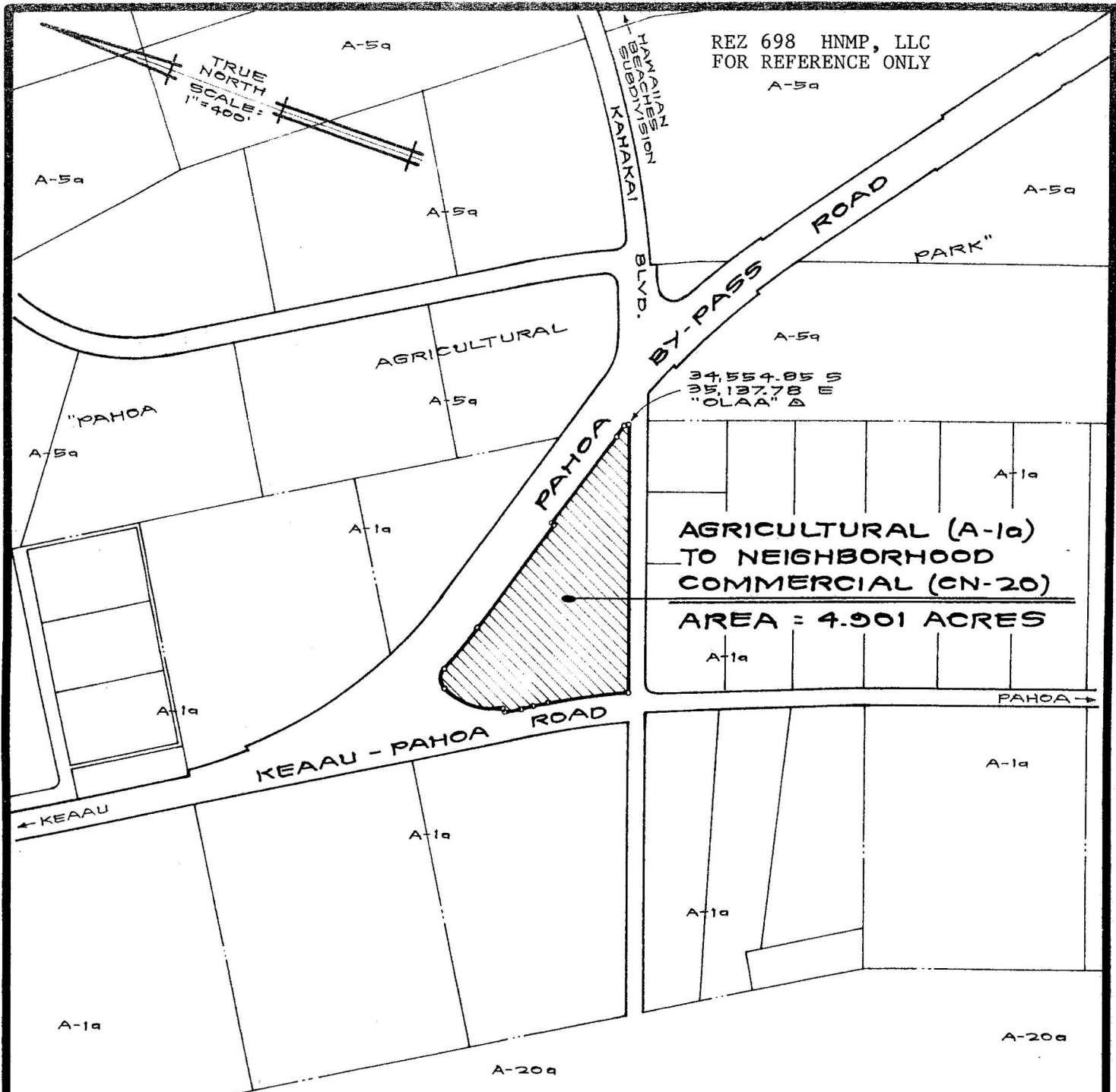
INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAI'I

Kona, Hawai'i

Date of Introduction: September 9, 2010  
Date of 1st Reading: September 9, 2010  
Date of 2nd Reading: September 21, 2010  
Effective Date: October 7, 2010

REFERENCE: Comm. 903.6



## AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-107 (PAHOIA 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 KEONEPEKO, PUNA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT  
COUNTY OF HAWAII

TMK : 1-5-07 : 20

AUG. 22, 1991

EXHIBIT "A"

(KANESHIRO AND SONS ENTERPRISES)  
C-902 25-232

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

(Draft 2)

REC'D MED

Introduced By: Donald Ikeda  
 Date Introduced: September 9, 2010  
 First Reading: September 9, 2010  
 Published: N/A

REMARKS: \_\_\_\_\_  
 \_\_\_\_\_  
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Second Reading: September 21, 2010  
 To Mayor: September 29, 2010  
 Returned: October 8, 2010  
 Effective: October 7, 2010  
 Published: October 18, 2010

REMARKS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2010 OCT 8 PM 1:02

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques	X			
Ford		X		
Greenwell	X			
Hoffmann		X		
Ikeda	X			
Naeole-Beason	X			
Onishi	X			
Yagong		X		
Yoshimoto	X			
	6	3	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Enriques	X			
Ford	X			
Greenwell	X			
Hoffmann	X			
Ikeda	X			
Naeole-Beason	X			
Onishi	X			
Yagong	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 AS TO  
 FORM AND LEGALITY:

  
 DEPUTY CORPORATION COUNSEL  
 COUNTY OF HAWAII

Date SEP 30 2010

  
 COUNCIL CHAIRMAN

  
 COUNTY CLERK

Bill No.: 283 (Draft 2)  
 Reference: C-903.6/PC-88  
 Ord No.: 10 38

Approved/Disapproved this 7<sup>th</sup> day  
 of October, 20 10

  
 MAYOR, COUNTY OF HAWAII

**Ordinances Numbered 10-88, 10-89, 10-90, 10-91, 10-92, 10-93, 10-94, 10-95, 10-96, 10-97, & 10-98**

I hereby certify that the following Ordinances passed second and final reading at the meeting of the County Council on September 21, 2010, by vote, as listed below:

**Ordinance 10-88 (Bill 283, Draft 2):** An Ordinance Amending Ordinance No. 03-111, Which Amended Ordinance No. 00-128, Which Amended Ordinance No. 91-116, Which Reclassified Lands From Agricultural – 1 Acre (A-1a) to Neighborhood Commercial – 20,000 Square Feet (CN-20) at Keonepoko, Puna, Hawai'i, Covered by Tax Map Kay 1-5-007:020. AYES: Council Members Enriques, Ford, Greenwell, Hoffmann, Ikeda, Naeole-Beason, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.

**Ordinance 10-89 (Bill 285):** An Ordinance to Amend Ordinance No. 10-59, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2011. AYES: Council Members Enriques, Greenwell, Hoffmann, Ikeda, Naeole-Beason, Onishi, Yagong, and Chair Yoshimoto – 8; NOES: None; ABSENT: Council Member Ford – 1; EXCUSED: None.

**Ordinance 10-90 (Bill 286):** An Ordinance to Amend Ordinance No. 10-59, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2011. AYES: Council Members Enriques, Ford, Greenwell, Hoffmann, Ikeda, Naeole-Beason, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.

**Ordinance 10-91 (Bill 287):** An Ordinance Amending Ordinance No. 10-60, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2010 to June 30, 2011. AYES: Council Members Enriques, Ford, Greenwell, Hoffmann, Ikeda, Naeole-Beason, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.

**Ordinance 10-92 (Bill 288):** An Ordinance Amending Ordinance No. 10-60, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2010 to June 30, 2011. AYES: Council Members Enriques, Ford, Greenwell, Hoffmann, Ikeda, Naeole-Beason, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.

**Ordinance 10-93 (Bill 289):** An Ordinance to Amend Ordinance No. 10-59, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2011. AYES: Council Members Enriques, Ford, Greenwell, Hoffmann, Ikeda, Naeole-Beason, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.

**Ordinance 10-94 (Bill 290):** An Ordinance Amending Ordinance No. 10-60, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2010 to June 30, 2011. AYES: Council Members Enriques, Ford, Greenwell, Hoffmann, Ikeda, Naeole-Beason, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.

**Ordinance 10-95 (Bill 292):** An Ordinance Amending Ordinance No. 10-60, as Amended, Relating to Public Improvements and Financing Thereof for the Fiscal Year July 1, 2010 to June 30, 2011. AYES: Council Members Enriques, Ford, Greenwell, Hoffmann, Ikeda, Naeole-Beason, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.

**Ordinance 10-96 (Bill 293):** An Ordinance to Amend Ordinance No. 10-59, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2011. AYES: Council Members Enriques, Ford, Greenwell, Hoffmann, Ikeda, Naeole-Beason, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.

**Ordinance 10-97 (Bill 294):** An Ordinance to Amend Ordinance No. 10-59, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2011. AYES: Council Members Enriques, Ford, Greenwell, Hoffmann, Ikeda, Naeole-Beason, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.



**Ordinance 10-98 (Bill 295):** An Ordinance to Amend Ordinance No. 10-59, as Amended, the Operating Budget for the County of Hawai'i for the Fiscal Year Ending June 30, 2011. AYES: Council Members Enriques, Ford, Greenwell, Hoffmann, Ikeda, Naeole-Beason, Onishi, Yagong, and Chair Yoshimoto – 9; NOES: None; ABSENT: None; EXCUSED: None.



Kenneth G. Goodenow  
County Clerk

(Hawai'i Tribune-Herald – October 18, 2010)

(West Hawai'i Today – October 18, 2010)

**Note:** The original Digest/Affidavit is attached to Ordinance 10-88.