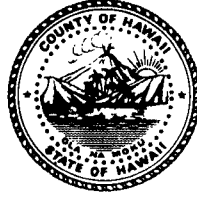


COUNTY OF HAWAI'I



STATE OF HAWAI'I

ORDINANCE NO. **13 123** BILL NO. 120  
(DRAFT 2)

AN ORDINANCE AMENDING SECTION 25-8-26 (PĀHOA ZONE MAP), ARTICLE 8, CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION), BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL – 1 ACRE (A-1a) TO VILLAGE COMMERCIAL – 10,000 SQUARE FEET (CV-10) AT KEONEPOKO IKI, PUNA, HAWAI'I, COVERED BY TAX MAP KEY 1-5-007:006, 069 & 070.

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

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 Iki, Puna, Hawai'i, shall be Village Commercial – 10,000 square feet (CV-10):

Beginning at the Southwest corner of this parcel of land, the Northwest corner of Lot 7 and on the Southwesterly side of Puna Road, the coordinates of which referred to Government Survey Triangulation Station "PAHOA" being: 1.70 feet South and 630.10 feet East and running by azimuths measured clockwise from True South:

1. 70° 34' 613.53 feet along Lot 7;
2. 148° 50' 306.21 feet along Parcel 51;
3. 70° 34' 112.47 feet along same;
4. 148° 50' 306.22 feet along government Land;
5. 250° 34' 829.60 feet along Road Reserved;

6. 338° 34' 600.00 feet along the Southwesterly side of Puna Road to the point of beginning, and containing an area of: 9.933 Acres, more or less.

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 (2005 Edition), the County Council finds the following conditions are:

Necessary to prevent circumstances which may be adverse to the public health, safety and welfare; or

- (1) 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, successors or assigns shall be responsible for complying with all of the stated conditions of approval.
- B. The applicant shall secure Final Subdivision Approval to consolidate Tax Map Key Nos. 1-5-007:006, 069 and 070 within one (1) year from the effective date of this ordinance.
- C. Site layout and building design of the proposed development shall adhere to any design guidelines established for Pāhoia Village that are in effect when plans are submitted for Final Plan Approval.
- D. Construction of the development shall be completed within five (5) years from the effective date of this ordinance. Prior to construction, the applicant shall secure Final Plan Approval for the development from the Planning Director in

accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and/or proposed structures, fire protection measures, paved driveway access and paved parking stalls associated with the proposed development. Landscaping shall be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department Rule No. 17 (Landscaping Requirements) and Chapter 25 (Zoning Code), Hawai'i County Code.

- E. The applicant shall submit estimated maximum daily water usage calculations prepared by a professional engineer licensed in the State of Hawai'i, and a water commitment deposit in accordance with the "Water Commitment Guidelines Policy" to the Department of Water Supply within 180 days from the effective date of this ordinance. The water usage calculations should include the total estimated maximum daily water usage in gallons per day and the estimated peak flow in gallons per minute. The applicant shall provide prevailing facilities charge(s), service lateral(s) and water meter(s), and any other water system improvements as required by the Department of Water Supply to provide County water to the proposed development.
- F. If required, the applicant shall install a fire hydrant fronting the subject property meeting with the requirements of the Department of Water Supply prior to the issuance of a Certificate of Occupancy for any portion of the proposed development.
- G. The applicant shall install a reduced pressure type backflow prevention assembly on private property within five (5) feet of any water meter(s) serving the proposed development, which must be inspected and approved by the Department of Water Supply before water service can be activated.

- H. The applicant shall be responsible for the relocation and adjustment of the Department of Water Supply's affected water system facilities, should they be necessary, due to construction of improvements within the Pāhoa Village Road right-of-way.
  
- I. As agreed to by the applicant, a Certificate of Occupancy shall not be issued for any portion of the proposed development until the applicant has installed a traffic signal at the Kahakai Blvd/ Pāhoa Village Road intersection meeting with the approval of the Department of Public Works and State Department of Transportation. Also prior to issuance of a Certificate of Occupancy for any portion of the proposed development, crosswalks and turning lanes recommended in the TIAR and shown in Figure 3 of the Final Environmental Assessment, titled "*Preliminary Site Plan and Proposed Roadway Improvements*" shall be installed by the applicant at this intersection.
  
- J. Prior to receipt of Final Plan Approval, the applicant shall secure a right-of-entry from the Board of Land and Natural Resources to extend Kahakai Blvd approximately 829 feet west from its intersection with Pāhoa Village Road. The extension of Kahakai Blvd along its entire frontage with the project site shall be constructed to Department of Public Work's R-32 standard detail for business and industrial streets with an exception to the north-side pavement width of 25 feet to accommodate an improved right-of-way width of 55 feet in lieu of the standard 60 feet. A five (5) foot wide future road widening strip along the property's Kahakai Blvd frontage shall be provided by the applicant in order to implement this improvement. These improvements, meeting the requirements of the Americans with Disabilities Act and the approval of the Department of Public Works, shall be completed prior to issuance of a Certificate of Occupancy for any commercial use or when required by the Department of Public Works, whichever occurs first.

- K. A five (5) foot wide future road widening strip along the property's Pāhoa Village Road frontage shall be subdivided and dedicated, at no cost to the County, prior to the issuance of Final Plan Approval for any commercial use on the subject property. The applicant shall provide improvements to the property's frontage along Pāhoa Village Road consisting of, but not limited to, installation of a two-way left-turn lane, pavement widening with concrete curb, gutter and sidewalk, drainage improvements and any required utility relocation, meeting the requirements of the Americans with Disabilities Act and the approval of the Department of Public Works. The curb, gutter, sidewalk and drainage improvements shall be located within the future road widening strip. These improvements shall be completed prior to issuance of a Certificate of Occupancy for any commercial use or when required by the Department of Public Works, whichever occurs first.
- L. Prior to issuance of a Certificate of Occupancy, the applicant shall install a bus stop and shelter as shown in Figure 3 of the Final Environmental Assessment, titled "*Preliminary Site Plan and Proposed Roadway Improvements*", meeting the requirements of the Department of Public Works.
- M. Driveway connections to Pāhoa Village Road and the Kahakai Blvd Extension shall conform to Chapter 22, County Streets, of the Hawai'i County Code.
- N. As agreed to by the applicant, a Certificate of Occupancy shall not be issued for the proposed development until construction of the Department of Transportation's intersection improvement project at the Pāhoa Bypass (Highway 130)/Pāhoa Village Road intersection has been completed.
- O. Throughout the course of developing this commercial project, the Applicant shall manage construction-related traffic in order to optimize traffic flow through the Kahakai Blvd.-Pāhoa Village Road intersection, especially during construction of

improvements to the Pāhoa Bypass (Highway 130)/ Pāhoa Village Road intersection that will direct traffic flow through this intersection.

- P. All development-generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
- Q. All earthwork activity, including grading and grubbing, shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai‘i County Code.
- R. Comply with Chapter 11-55, Water Pollution Control, Hawai‘i Administrative Rules, Department of Health, which requires a NPDES permit for certain construction activity.
- S. The method of sewage disposal shall meet with the requirements of the Department of Health.
- T. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources – State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from the DLNR-SHPD when it finds that sufficient mitigation measures have been taken.
- U. If the applicant, successors, or assigns develop residential units on the subject properties, the applicant, successors or assigns shall make its fair share contribution to mitigate the potential regional impacts of the development 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 Plan Approval. The fair share contribution for each lot shall be based on

the actual number of residential units developed. 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 maximum combined value of **\$8,394.57** per multiple family residential unit (**\$13,081.99** per single family residential unit). The total amount shall be determined by the actual number of units according to the calculation and payment provisions set forth in this condition. The fair share contribution per multiple family residential unit (single family residential units) shall be allocated as follows:

- **\$4,140.80** per multiple family residential unit (**\$6,308.37** per single family residential unit) to the County to support park and recreational improvements and facilities;
- **\$130.87** per multiple family residential unit (**\$304.32** per single family residential unit) to the County to support police facilities;
- **\$402.57** per multiple family residential unit (**\$601.06** per single family residential unit) to the County to support fire facilities;
- **\$179.43** per multiple family residential unit (**\$263.15** per single family residential unit) to the County to support solid waste facilities; and
- **\$3,540.90** per multiple family residential unit (**\$5,605.09** per single family residential unit) to the County to support road and traffic improvements.

In lieu of paying the fair share contribution, the applicant, successors or assigns 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.

- V. 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.
  
- W. 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 the Affordable Housing Policy. This requirement shall be approved by the Administrator of the Office of Housing and Community Development prior to Final Plan Approval.
  
- X. The applicant, successors or assigns shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
  
- Y. 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).



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.

Should any of the conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate rezoning of the subject area to its original or more appropriate designation.

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.

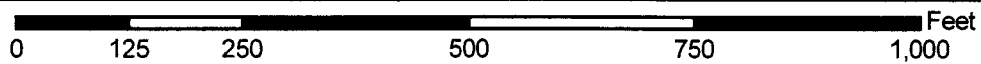
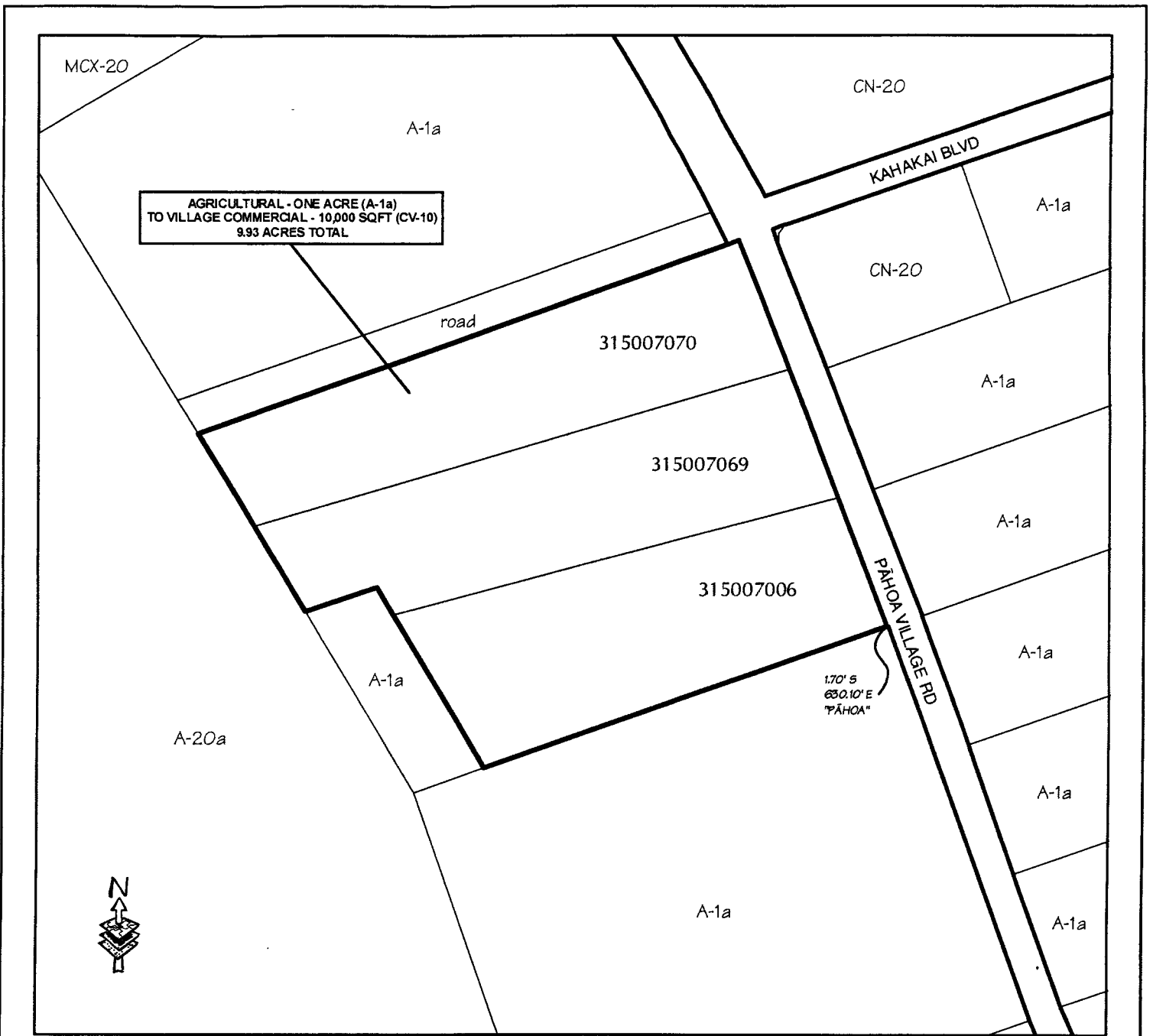
SECTION 4. This ordinance shall take effect upon its approval.

INTRODUCED BY:

  
COUNCIL MEMBER, COUNTY OF HAWAII

Kona, Hawai'i  
Date of Introduction: October 16, 2013  
Date of 1st Reading: November 6, 2013  
Date of 2nd Reading: November 20, 2013  
Effective Date: December 13, 2013

REFERENCE **Comm.** 409.8



# **AMENDMENT TO THE ZONING CODE**

AMENDING SECTION 25-8-26 (PĀHOA ZONE MAP) ARTICLE 8,  
 CHAPTER 25 (ZONING CODE) OF THE HAWAI'I COUNTY CODE 1983 (2005 EDITION),  
 BY CHANGING THE DISTRICT CLASSIFICATION FROM  
 AGRICULTURAL - ONE ACRE (A-1a) TO  
 VILLAGE COMMERCIAL - 10,000 SQFT (CV-10),  
 AT KEONEPOKO IKI, PUNA, HAWAI'I

MAP PREPARED BY:  
 COUNTY OF HAWAI'I, PLANNING DEPARTMENT

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

COUNTY CLERK  
 COUNTY OF HAWAII

2013 DEC 13 PM 4: 24

(Draft 2)

Introduced By: Zendo Kern (B/R)  
 Date Introduced: October 16, 2013  
 First Reading: November 6, 2013  
 Published: November 16, 2013

REMARKS: \_\_\_\_\_  
October 16, 2013 - Postponed

Second Reading: November 20, 2013  
 To Mayor: November 29, 2013  
 Returned: December 13, 2013  
 Effective: December 13, 2013  
 Published: December 27, 2013

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

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Eoff	X			
Ford	X			
Ilagan	X			
Kanuha	X			
Kern	X			
Onishi	X			
Poindexter	X			
Wille	X			
Yoshimoto	X			
	9	0	0	0

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Eoff	X			
Ford	X			
Ilagan	X			
Kanuha	X			
Kern	X			
Onishi	X			
Poindexter	X			
Wille	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.



COUNCIL CHAIRPERSON



COUNTY CLERK

Bill No.: 120 (Draft 2)

Reference: C-409.8/PC-47

Ord No.: 13 123

Approved Disapproved this 13<sup>th</sup> day  
 of December, 20 13.

*Wank. n. L*

MAYOR, COUNTY OF HAWAII