

COUNTY OF HAWAII STATE OF HAWAII

Bill No. 429
(Draft 2)

ORDINANCE NO. 87 120

AN ORDINANCE AMENDING SECTION 25-95B (UPOLU POINT-KAAUHUUHOMESTEADS ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-20a) TO AGRICULTURAL (A-3a) AT KAAUHUUH, NORTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 5-5-01:26.

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

SECTION 1. Section 25-95B, Article 3, 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 Kaauhuhu, North Kohala, Hawaii, shall be Agricultural (A-3a):

Beginning at a pipe (found) at the Easternmost corner of this parcel of land, being also the Southernmost corner of a portion of Lot 25 of the Kaauhuhu Homesteads, the Northernmost corner of Land Court Application 1788 and a point on the Westerly side of the existing 40-ft. wide Homestead Road, the coordinates of said point of beginning referred to Government Survey Triangulation Station "PUU O NALE" being 3,884.96 feet North and 6,208.09 feet East and running by azimuths measured clockwise from True South:

- 1. 48° 24' 10" 503.41 feet along Land Court Application 1788 to a pipe (found);
- 2. 139° 16' 721.26 feet along Lots B and A and along Grant 4818 to Peter R. Nelson to a pipe (found);

3. 215° 40' 158.13 feet along the remainder of Land Patent Grant 4962 to Annie K. Pulaa to a pipe (found);
4. 183° 45' 209.60 feet along the remainder of Land Patent Grant 4962 to Annie K. Pulaa to a pipe (set);
5. 248° 06' 174.10 feet along the remainder of Land Patent Grant 4962 to Annie K. Pulaa to a pipe (found);
6. 214° 57' 43.22 feet along the remainder of Land Patent Grant 4962 to Annie K. Pulaa to a pipe;
7. 319° 31' 33" 854.89 feet along a portion of Lot 25 of the Kaauhuhu Homesteads, and along Grant 5065 to D. W. Kawaimaka to the point of beginning and containing an area of 9.490 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 petitioners shall submit the required water commitment deposit to the Department of Water Supply in according with its "Water Commitment Guidelines Policy" within ninety days from the date of the County Council's approval of the change of zone. The effective date of the zoning change for the property shall be the date the Planning Department receives notification from the Department of Water Supply that a water commitment deposit has

been accepted by the Department of Water Supply; (B) the petitioners, successors or its assigns shall be responsible for complying with all of the stated conditions of approval; (C) the subdivision plans shall be submitted to the Planning Department within one year from the effective date of the zone change; (D) final subdivision approval shall be secured within one year from the date of receipt of tentative subdivision approval; (E) it shall be demonstrated to the satisfaction of the Planning Director that substantial agricultural activity is being conducted on the lands being considered for subdivision under this change of zone request. For the purpose of this condition "agriculture" shall be defined as the cultivation of crops, including but not limited to flowers, vegetables, foliage, fruits, forage and timber; game propagation; raising of livestock, including but not limited to poultry, bees, fish or other animal or aquatic life that are propagated for economic or personal use. An agricultural activity will be considered substantial: (1) if such activity is implementing a conservation program for the affected property(ies), as approved by the applicable soil and water conservation district directors and filed with the Soil Conservation Service; (2) if it provides a major source of income to the person(s) who resides on the property; or (3) if the property is dedicated for Agriculture uses in accordance with applicable Tax Department procedures and that such agriculture dedication

shall be made a deed covenant and duly recorded with the State Bureau of Conveyances and with a copy filed with the Planning Department. Each lot must comply with one or more of the above requirement to satisfy the conditions of approval of this change of zone request; (F) all other applicable rules, regulations and requirements be complied with; and (G) an initial extension of time for the performance of conditions within the ordinance may be granted by the Planning Director upon the following circumstances: a) 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; b) granting of the time extension would not be contrary to the general plan or zoning code; c) granting of the time extension would not be contrary to the original reasons for the granting of the change of zone; d) 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 e) if an additional extension of time is required, the Planning Director shall submit the 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 may initiate rezoning of the area to its original or more appropriate designation.

SECTION 3. Should the council adopt A Uniform Impact Fees Ordinance setting forth criteria for the imposition of exactions or the assessment of impact fees, conditions included herein may be satisfied by performance in accordance with the requirements of the Uniform Impact Fees Ordinance.

SECTION 4. In the event that any portion of the ordinance is declared invalid, such invalidity shall not affect the other parts of this ordinance.

SECTION 5. This ordinance shall take effect upon its approval.

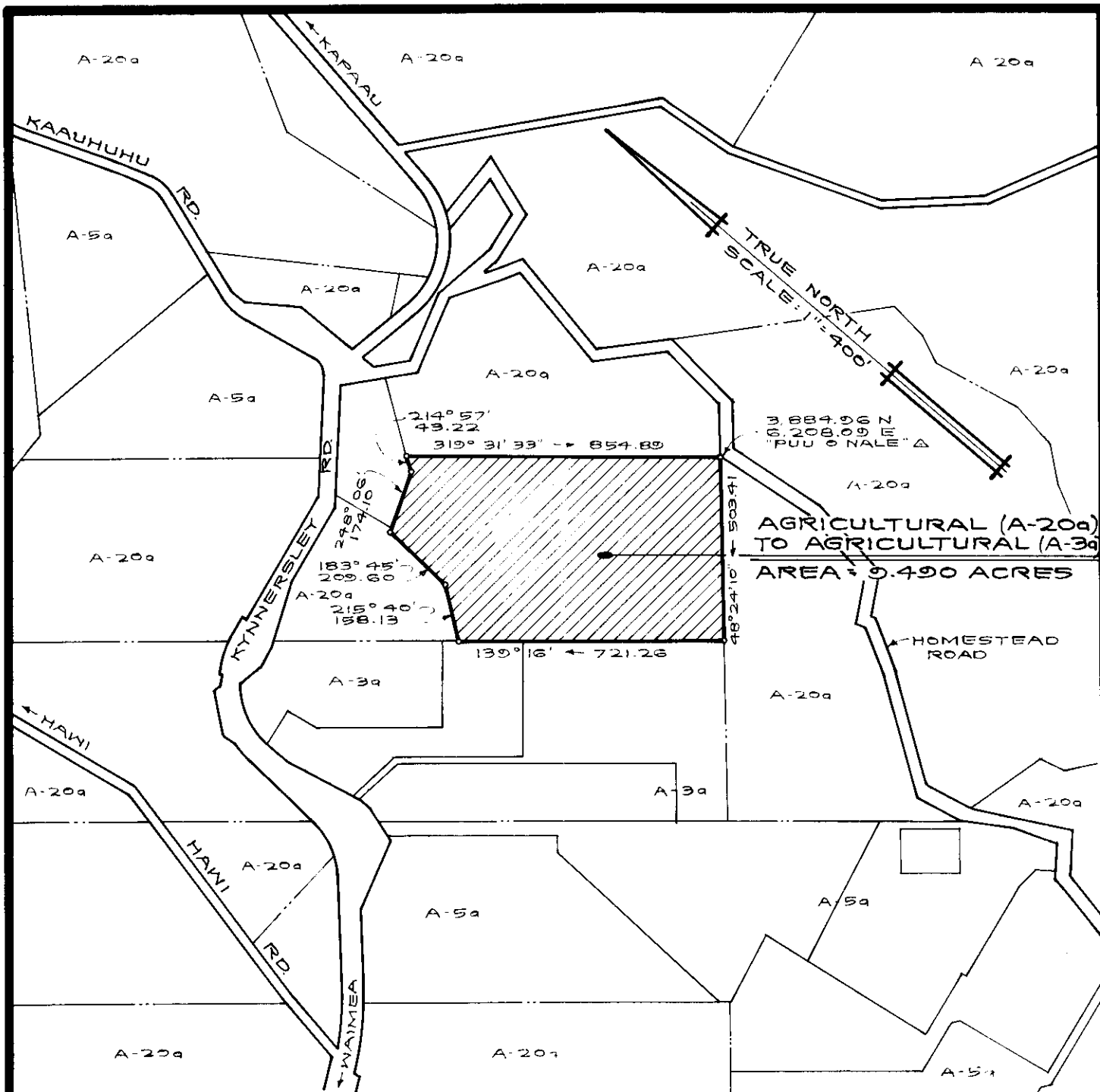
INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: November 4, 1987
Date of 1st Reading: November 4, 1987
Date of 2nd Reading: November 18, 1987
Effective Date: November 30, 1987



AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-95 B (UPOLU POINT-KAAUHUHU HOMESTEADS ZONE MAP) ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, BY CHANGING THE DISTRICT CLASSIFICATION FROM AGRICULTURAL (A-20a) TO AGRICULTURAL (A-3a) AT KAAUHUHU, NORTH KOHALA, HAWAII.

PREPARED BY: PLANNING DEPARTMENT
COUNTY OF HAWAII

TMK: 5-5-01: 26

JUNE 9, 1987

EXHIBIT "A"