

COUNTY OF HAWAII STATE OF HAWAII



BILL NO. 482

(Draft 2)

ORDINANCE NO. 91 108

AN ORDINANCE AMENDING SECTION 25-95A (NORTH AND SOUTH KOHALA DISTRICTS 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-2a) AT KAPAAU, NORTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 5-4-3:01.

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

SECTION 1. Section 25-95A, 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 Kapaau, North Kohala, Hawaii, shall be Agricultural (A-2a):

Beginning at the southwest corner of this parcel of land, on the northerly boundary of Grant 1546 to Kuapalena on the easterly side of Kapaau Gulch and running by azimuths measured clockwise from true South:

- 1. 224° 40' 320.00 feet along Grant 1553 to Haaheo;
- 2. 215° 40' 170.00 feet along Grant 1553 to Haaheo;
- 3. 194° 47' 95.70 feet along Grant 1553 to Haaheo;
- 4. 180° 00' 710.00 feet along Grant 1553 to Haaheo;
- 5. 286° 03' 250.00 feet along Grant 1553 to Haaheo;
- 6. 3° 23' 221.90 feet along remainder of Royal Patent 6586, Land Commission Award 8689-B to Heleanaole to a pipe in concrete marked No. 855 (found);

- |     |          |        |  |
|-----|----------|--------|--|
| 7.  | 286° 03' | 233.47 | feet along remainder of Royal Patent 6586, Land Commission Award 8689-B to Heleanaole and crossing roadway;  |
| 8.  | 3° 21'   | 799.00 | feet along remainder of Royal Patent 6586, Land Commission Award 8689-B to Heleanaole;   |
| 9.  | 77° 30'  | 42.40  | feet along remainder of Royal Patent 6586, Land Commission Award 8689-B to Heleanaole to a pipe in concrete marked No. 853 (found);  |
| 10. | 46° 00'  | 115.00 | feet along remainder of Royal Patent 6586, Land Commission Award 8689-B to Heleanaole;   |
| 11. | 50° 30'  | 141.80 | feet along remainder of Royal Patent 6586, Land Commission Award 8689-B to Heleanaole;   |
| 12. | 107° 30' | 545.00 | feet along remainder of Royal Patent 7353, Land Commission Award 8735 to Kuapalena and Grant 1546 to Kuapalena to the point of beginning and containing an area of 12.689 acres, more or less. |

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, successors or assigns shall be responsible for complying with all stated

conditions of approval; (B) subdivision plans shall be submitted to the Planning Department within one year from the effective date of the change of zone. Final subdivision approval shall be secured within one year from the date of receipt of tentative subdivision approval. Subdivision plans shall show a 40-foot wide road right-of-way lot along the eastern boundary of the property. Minimum lot sizes shall be determined by calculating the total area within the proposed lot lines exclusive of the road right-of-way lot; (C) a 40-foot road right-of-way along the entire eastern boundary of the property shall be dedicated to the County of Hawaii. The pavement of the access road along the entire frontage of the subject property shall be widened to a minimum of 16 feet in a manner meeting with the approval of the Department of Public Works. Said improvements shall be provided in conjunction with final subdivision approval; (D) it shall be demonstrated to the satisfaction of the Planning Director that agricultural activity is being conducted on the subdivided lots within three years from the date of final subdivision approval. 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. This condition shall

be incorporated in each of the deeds for the proposed lots and duly recorded with the State Bureau of Conveyances. A copy of the recorded deeds shall be filed with the Planning Department within one year from the date of final subdivision approval; (E) access shall meet with the approval of the Department of Public Works; (F) a drainage system shall be installed in accordance with the requirements of the Department of Public Works; (G) comply with all applicable laws, rules, regulations and requirements; (H) 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; (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 the zone change. 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; (K) should any improvement district or similar arrangements be initiated for the county maintained road within the subject property which will front future parcels of the subdivision, the applicants, successors or assigns shall participate in such improvement district or similar arrangements provided, however, that this condition shall be included in a restricted covenant approved by the Planning Department prior to tentative subdivision approval and recorded with the Bureau of Conveyances; and (L) 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); 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 3. In the event that any portion of the 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:

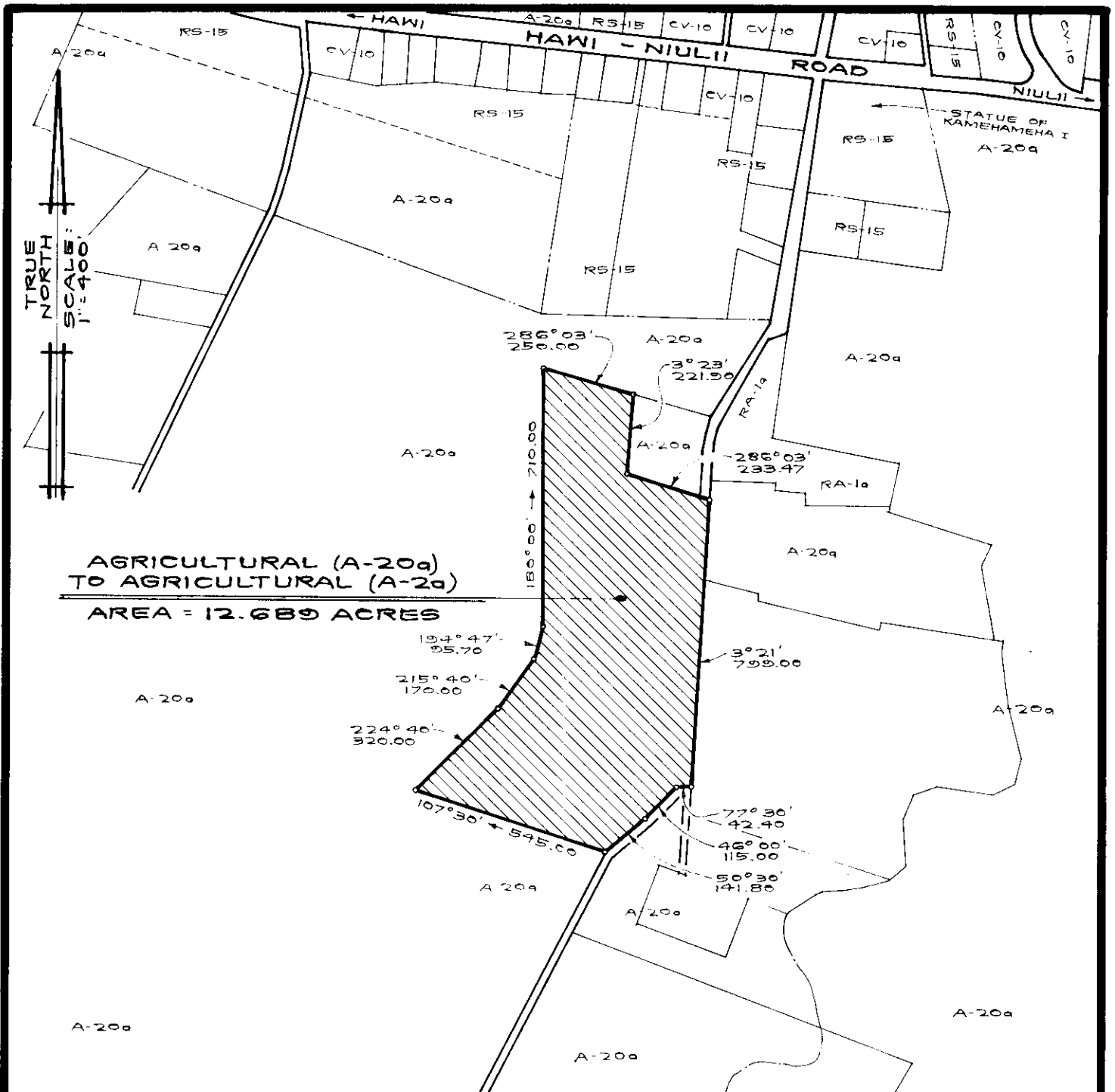
  
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii

Date of Introduction: October 2, 1991  
Date of 1st Reading: October 2, 1991  
Date of 2nd Reading: October 16, 1991  
Effective Date: October 24, 1991

APPROVED AS TO FORM AND LEGALITY:

  
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DATED: \_\_\_\_\_



## AMENDMENT TO THE ZONING CODE

AMENDING SECTION 25-95A (NORTH AND SOUTH KOHALA DISTRICTS 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-2a) AT KAPAAU, NORTH KOHALA, HAWAII.

PREPARED BY : PLANNING DEPARTMENT  
COUNTY OF HAWAII

TMK : 5-4-03 : 1

JUNE 18, 1991

EXHIBIT "A"

(VICTOR MESSIER)