

COUNTY OF HAWAII STATE OF HAWAII

BILL NO. 92

ORDINANCE NO. 93 71

AN ORDINANCE AMENDING SECTION 25-95A (NORTH AND SOUTH KOHALA DISTRICTS ZONE MAP), ARTICLE 3, CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE, RELATING TO THE MODIFICATON OF CONDITION C OF ORDINANCE NO. 87-115, WHICH RECLASSIFIED 20.010 ACRES OF LAND FROM AN AGRICULTURAL (A-20a) TO AN AGRICULTURAL (A-3a) ZONED DISTRICT AT KAHUA 1ST AND WAIKA, NORTH KOHALA, HAWAII, COVERED BY TAX MAP KEY 5-9-06:1.

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

SECTION 1. Ordinance No. 87-115 is amended as follows:

"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 Kahua 1st and Waika, North Kohala, Hawaii, shall be Agricultural (A-3a):

Beginning at the South Corner of this parcel of land, on the Northerly side of 80-foot wide roadway being also the East corner of Lot 19 (map 3) of Land Court Consolidation 117 and running by azimuths measured clockwise from true South:

1. 141° 26' 1,934.85 feet along Lot 19 (map 3 of Land Court Consolidation 117 to middle of Keawewai Gulch;

thence along middle of Keawewai Gulch along Lots 207, 206 and 205 (map 12) of Land Court Consolidation 117, the direct azimuths and distances between points along said middle of Keawewai Gulch being:

- 2. 235° 03' 126.85 feet;
- 3. 248° 55' 392.54 feet;
- 4. 321° 26' 1,521.42 feet along Lot 17 (map 3 of Land Court Consolidation 117;

thence along the Northerly side of 80-foot wide roadway on a curve to the left with a radius of 740.00 feet, the chord azimuth and distance being:

- 5. 22° 40' 12" 30.22 feet;
- 6. 21° 30' 517.45 feet along the Northerly side of 80-foot wide roadway;

thence along the Northerly side of 80-foot wide roadway on curve to the right with a radius of 1,960.00 feet, the chord azimuth and distance being:

- 7. 21° 56' 17" 29.97 feet to the point of beginning and containing an area of 20.010 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 petitioner, successors

or its assigns shall be responsible for complying with all of the stated conditions of approval; (B) it shall be demonstrated to the satisfaction of the Planning Director that substantial agricultural activity is being conducted on the land 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 reside 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. The execution of a farm dwelling agreement may also suffice in lieu of the above requirements. Each approved lot must comply with one or more of the above requirements to satisfy the conditions of approval

of this change of zone request; (C) [subdivision plans shall be submitted to the Planning Department within one year from the effective date of the zone change.] Final subdivision approval shall be secured within one year from the effective date of [receipt of tentative subdivision approval] this amendment;

(D) a drainage system shall be installed in accordance with the requirements of the Department of Public Works; (E) only one access shall be allowed to the proposed subdivision from Ala Kahua Drive. Such access shall meet with the approval of the Department of Public Works; and, (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 2. Material to be deleted is bracketed. New material is underscored.

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: July 14, 1993
Date of 1st Reading: July 14, 1993
Date of 2nd Reading: July 28, 1993
Effective Date: August 5, 1993

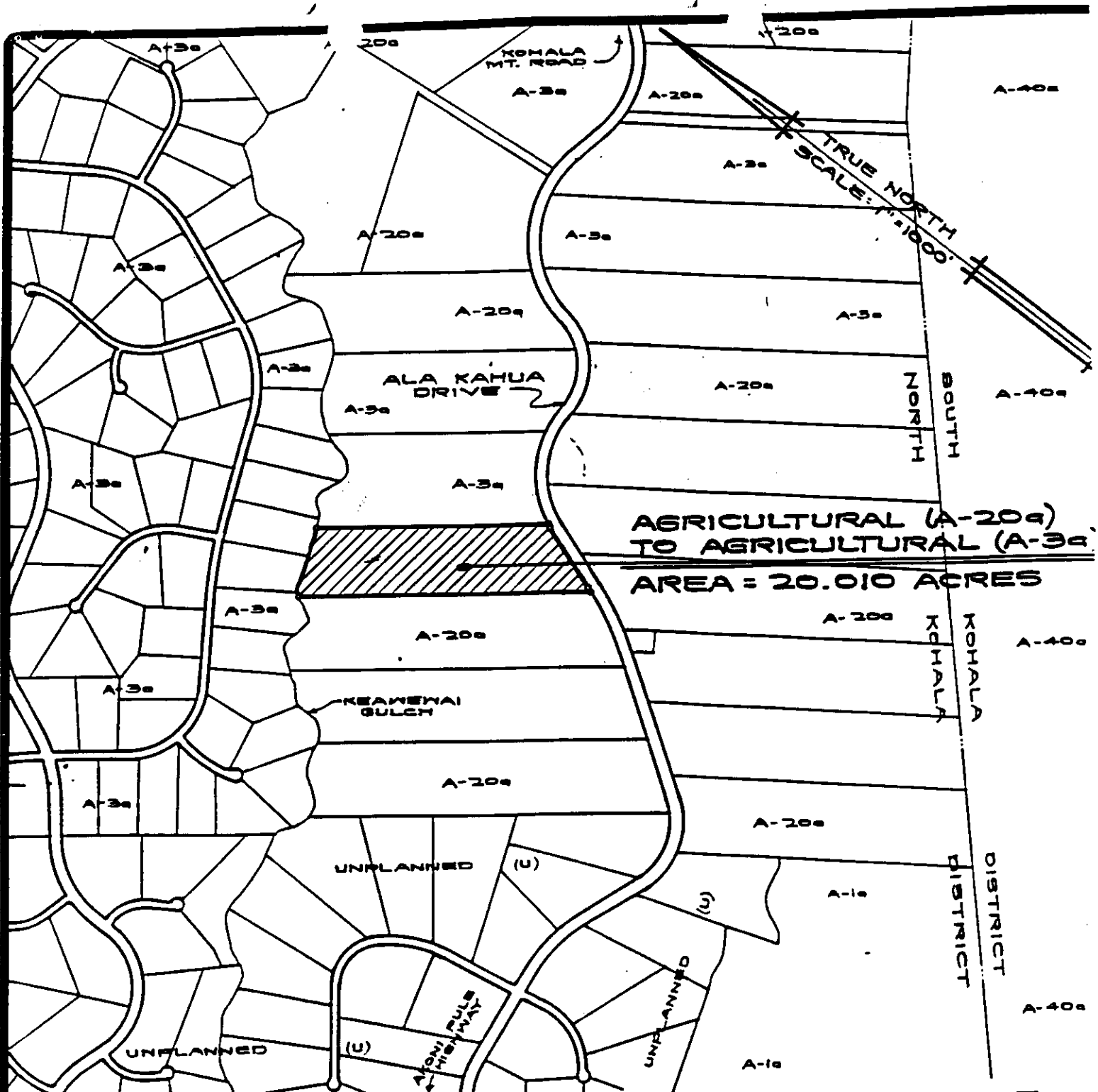
APPROVED AS TO FORM AND LEGALITY:



CORPORATION COUNSEL

DEPUTY

DATED: 5/27/93



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-3a) AT KAHUA 1ST AND WAIKA, NORTH KOHALA, HAWAII.

PREPARED BY: PLANNING DEPARTMENT
COUNTY OF HAWAII